



# HAVANT BOROUGH COUNCIL

# CONSTITUTION

HAVANT BOROUGH COUNCIL  
PUBLIC SERVICE PLAZA  
CIVIC CENTRE ROAD  
HAVANT  
HAMPSHIRE P09 2AX

Telephone: 023 9244 6019  
Website: [www.havant.gov.uk](http://www.havant.gov.uk)

Havant Borough Council has agreed a constitution which sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The purpose of the constitution is to:

- Enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Support the active involvement of citizens in the process of local authority decision making;
- Help councillors to represent their constituents more effectively;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision-makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Provide a means of improving the delivery of services to the community.

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## **Brexit impact**

Many of the laws and practices within this Constitution, such as the UK public procurement regime, derive from EU laws, and are therefore impacted by the UK's withdrawal from the EU.

As of 31 January 2020, the UK is no longer an EU Member State and its relationship with the EU is governed by the Withdrawal Agreement, which came into effect on 1 February 2020. The Withdrawal Agreement contains transitional arrangements, which provide for a transition period until 31 December 2020. During this period, the UK continues to be treated as a Member State for current purposes.

This Constitution will be kept under review during the implementation period and updated accordingly. For further guidance, please contact the Monitoring Officer

# 1 The Council's Constitution

This document is the Council's Constitution. It contains details of how the Council works, how decisions are made and where to find information about the Council.

Havant Borough Council is a non-metropolitan borough authority with statutory responsibility for delivering services within the Borough of Havant. The Council was incorporated on 1 April 1974 following the Local Government Act 1972.

Havant Borough Council (usually referred to in this Constitution as simply "the Council") has adopted a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

Generally speaking the Council will exercise its powers and duties in accordance with the Constitution, unless the law requires the Council to do something else or the relevant provisions are waived.

Hyperlinks to other documents/sites are included where this will be helpful. All hyperlinks are coloured [blue like this](#).

Defined terms are included in the Glossary in Part 6. Terms in the Glossary and Parts of the Constitution are shown in bold **like this**.

## 2. What Is In The Constitution?

The Constitution has six parts:

**Part 1** is this summary and explanation.

**Part 2** sets out which parts of the Council are responsible for carrying out the various functions of the Council.

**Part 3** contains the various Procedure Rules – Standing Orders - which govern how the Council conducts its business, including how it makes decisions and how meetings are conducted.

**Part 4** includes codes and protocols that govern how Councillors (also known as “members” of the Council) and officers of the Council must behave in performing their duties.

**Part 5** is the Councillors’ Allowances Scheme which sets the level of financial allowances which Councillors receive for performing their duties.

**Part 6** is a Glossary which explains some of the terminology used in this document. Terms in the Glossary and Parts of the Constitution are shown in **bold**.

There are a number of other codes, protocols and policy documents that govern how the Council operates which do not form part of this Constitution. Where the Constitution refers to these documents, they will be made available on the Council's website via a [hyperlink](#).

### 3 Councillors

Havant Borough Council is made up of 38 **Councillors**, also known as “**members**”. Councillors are elected by and are democratically accountable to the residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Only registered voters of the Borough or people living or working here are eligible to stand to be elected as a Councillor.

The regular election of Councillors is usually held on the first Thursday in May three years in every four, for the ordinary election of a third (or as near as may be) of all Councillors except that in every fourth year, there will be no regular election. In wards with two Councillors an election to select a Councillor will happen every two years. The term of office of Councillors starts on the fourth day after being elected and will finish on the fourth day after the date of the next regular election (except for the Mayor and Deputy Mayor; and the Leader and Deputy Leader whose term of office continues until the following Annual Full Council Meeting even if they are not re-elected). Find out when the [next elections](#) will take place.

A full list of Councillors' names, contact information, term of office, and their membership of political groups is available [here](#) on the Council's website along with details of the committees and bodies on which they serve. Find out which [ward](#) you are in and view details of the [political composition](#) of the Council.

**Councillors** have the following roles and functions:

- a) Collectively deciding the Council's **Budget and Policy Framework** and carrying out a number of other strategic functions;
- b) Initiating, developing and scrutinising policy;
- c) Representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;
- d) Contributing to the good governance of the area and encouraging community participation;
- e) Dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;
- f) Balancing different interests identified within the ward and representing the ward and the Council as a whole;
- g) Maintaining the confidentiality of confidential and exempt information and assisting to ensure transparency of information that is publicly available (otherwise there may be a breach of the **Code of Conduct for Councillors**);
- h) Being involved in decision-making;
- i) Being available to represent the Council on other bodies; and
- j) Promoting and maintaining the highest standards of conduct and ethics.



**Councillors** have to follow a **Code of Conduct for Councillors** to ensure high standards in the way they undertake their duties. The **Standards Committee** and Monitoring Officer advise Councillors on the Code of Conduct; promote high standards of behaviour; and monitor standards of conduct.

The Council maintains a register of interests declared by Councillors which is open to inspection by members of the public and available on the Council's website. Councillors are entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in Part 5 of this Constitution.

## 4 How the Council makes decisions

### Full Council

All **Councillors** meet together a number of times each year as the **Full Council**. You can find details of the calendar of [Full Council meetings](#) on the Council's website. Annual Full Council appoints a Mayor and Deputy Mayor who preside over the Full Council meeting, perform the Council's civic role and represent the Council in the community.

The Full Council is responsible for setting the **Budget and Policy Framework**. The **Budget and Policy Framework** sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Full Council can change the **Budget and Policy Framework**. Full Council sets the Council's budget each year.

The Full Council also appoints a number of committees to deal with regulatory functions such as Planning and Licensing. See details of the [Council's Committees](#).

Meetings of the Council and other decision-making bodies are open to the public, except where personal or confidential matters are being discussed (see Access to Information Standing Orders in **Part 3**).

### Structure of the Council

The decision-making structure of the Council can be found in Part Two Responsibility for Functions

### The Executive (Cabinet)

The Council has adopted an “**executive**” form of governance. This means that the Full Council appoints a **Leader** of the Council. The Leader then appoints a minimum of 2 and no more than 9 other Councillors who, together with the Leader, form the **Cabinet** and are responsible for certain decisions such as policy matters (including recommending the **Budget and Policy Framework**), housing, land and property and economic regeneration.

Councillors that are not part of the Cabinet are largely responsible for the scrutiny of executive decisions. Non-Cabinet Councillors may sit on the [Council's Committees](#).

## 5 Decision Making and the Cabinet

The **Cabinet** (also known as the "**Executive**") is the part of the Council, which is responsible for taking **executive decisions** and implementing the Council's **Budget and Policy Framework**.

The Cabinet, made up of the Leader and up to 9 additional Councillors, does not have to be appointed in **political balance**. The Council has decided that it will re-elect the Leader of the Council every year, rather than every four years, usually starting and ending at the Annual Full Council meeting. This is subject to a Leader resigning or being disqualified from office as a Councillor, or a vote of Full Council to remove the incumbent, which may happen before the end of the term.

Executive decisions may also be taken by the Leader, a committee of Cabinet, individual **Cabinet members** or by officers under the **Officer Scheme of Delegation** in **Part 2**.

Each of the Councillors on the Cabinet is responsible for a particular area of the Council's activities (called "portfolios"). Cabinet members are also sometimes called **portfolio holders**. Details of how the Cabinet operates and the current [Cabinet portfolios](#) can be accessed online.

The Cabinet has to make decisions that are in accordance with the Council's overall policies and budget. If it wishes to make a decision that is outside the Budget or Policy Framework, this must be referred to Full Council to decide.

Where Cabinet intends to discuss any matter in private, a notice will usually be published 28 days before the meeting and a further notice will be published when the agenda for the meeting becomes available.

When "**key decisions**" are to be discussed or made then special notice procedures must be followed – usually 28 days' public notice is given (although there are special rules where this is not possible). These procedures are set out in the Access to Information Standing Orders in **Part 3**.

Some decisions, as a matter of law, are not **executive decisions**. These decisions include Planning, Licensing and Personnel matters. The Council has standing regulatory and other committees to deal with these matters.

It is the duty of the Cabinet to work constructively and openly with backbench, opposition members and officers to make sure that the overview and scrutiny process is working correctly.

## 6 Overview and Scrutiny

The Overview and Scrutiny Committee supports and challenges the work of the **Cabinet** and the Council as a whole. It may be supported by sub-committees (known as Boards) or Task Groups. **Cabinet members** cannot sit on the Overview and Scrutiny Committee or any of its sub-committees. The Committee may hold inquiries into matters of local concern in which the public may take part, and may invite external bodies to provide evidence or appear before it. This sometimes lead to reports and recommendations which advise the Cabinet, the Council as a whole, and, in some cases, outside agencies, on policies, budgets, and service delivery. Individual Councillors may ask for items related to Council functions to be placed on the agenda of the committee.

The Overview and Scrutiny Committee also monitors the decisions of the **Executive** and **key decisions** taken by officers that have been taken but not yet implemented. Non-Cabinet Councillors can 'call-in' these decisions to enable the Overview and Scrutiny Committee to consider whether the decision is appropriate. The Overview and Scrutiny Committee may recommend that the decision is reconsidered by Cabinet.

The Overview and Scrutiny Committee may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## 7 The Council's Staff

Councillors are supported by the Council's staff/employees (who are also called "officers"). Officers provide advice, implement decisions and manage the day to day delivery of the Council's services.

The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council's services. Some officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Council's **statutory officers**: a Head of Paid Service responsible for the Council's officers (in Havant this is the Chief Executive); a Chief Finance Officer, responsible for the proper administration of the Council's financial affairs; and a Monitoring Officer responsible for reporting upon illegality and maladministration.

The Council's Management Structure is set out in **Part 2**. Officers must comply with a Code of Conduct which is set out in **Part 4**. The recruitment, selection and dismissal of officers will comply with the Officer Employment Standing Orders set out in **Part 3** of this Constitution. Officers are paid in accordance with the [Council's Pay Policy](#) .

The Councillor/Officer Protocol governs the relationship between officers and Councillors (in **Part 4** of this Constitution).

## 8 The Role of the Mayor of the Council

The Mayor is the first citizen of the Borough of Havant. The civic and ceremonial role of the Mayor is non-political. The Mayor serves for a one-year term of office. The Mayor has the following roles and functions.

The role of the Deputy Mayor is to assume the responsibilities of the Mayor if the Mayor is absent.

The Mayor will:

- a) promote public involvement in the Council's activities;
- b) promote the Council as a whole, acting as a focal point for the community, attending such civic and ceremonial functions and fulfilling such civic duties as the Council and he/she determine to be appropriate;
- c) preside over meetings of the Full Council so that Council business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, including deciding the order of business;
- d) ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and committee chairmen to account;
- e) keep order at Full Council meetings and ensure that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;
- f) exercise a second or casting vote in the event of a tied vote;
- g) subject to the advice and guidance of the Head of Paid Service, Chief Finance Officer or Monitoring Officer during Council meetings, interpret the Constitution as and when necessary; and
- h) when in debate or question time read the sense of the meeting and when in the Mayor's belief debate or questions already put shall have represented the views of the Council, the Mayor shall intervene to move to the next business under the Standing Orders in **Part 3**.

The Mayor and Deputy Mayor are members of the Council elected by Councillors at the Annual Meeting of the Full Council.

## **9 Rights of Members of the Public**

Members of the public, service users and residents have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in the Constitution.

### **Public Rights**

Members of the public have the right to:

- a) vote at local elections if they are registered on the electoral roll;
- b) stand for election as a Councillor if they live or work in the Council's area, in line with guidance from The Electoral Commission;
- c) present Petitions in accordance with the Council's rules;
- d) contact their local Councillors about any matters of concern to them relating to the functions of the Council;
- e) respond to any consultations which the Council issues

### **Access to information**

Members of the public can access information in the following ways:

- a) attending meetings of the Council, Cabinet or Committees except that part of the meeting where confidential or exempt information is likely to be disclosed and therefore needs to be in private;
- b) seeing up coming Key Decisions in Cabinet forward plan of decisions;
- c) seeing reports and background papers, and any records of decisions made by the Council, Cabinet and Committees; and
- d) inspecting the Council's accounts and make their views know to the External Auditor.

### **Public Participation**

Members of the public can (in accordance with the Procedure Rules set out in **Part 3**) participate in meetings of the Council in the following ways:

- a) Addressing meetings of **Full Council** to ask [questions](#), where prior notice is given.
- b) Addressing meetings of **Cabinet** to ask [questions](#), where prior notice is given.
- c) At Planning Committee in accordance with the Committee's rules on [public speaking](#) in the **Councillors' Planning Code of Conduct**.
- d) [Making representations to the Licensing Committee](#) as applicants or objectors in respect of individual applications; and speaking at Licensing Committee meetings on certain items in accordance with the Committee's rules on public speaking.
- e) [Reporting on the proceedings](#) at all open meetings of the Council by filming, photographing, audio-recording, using social media such as tweeting and blogging, or by any other means, and providing written commentaries during a meeting and oral commentaries outside of a meeting.

## Complaints

Anyone can make a complaint to:

- a) The Council under the Council's [Complaints Procedures](#);
- b) The [Local Government and Social Care Ombudsman](#) after first having used the Council's own complaint procedures and given the Council the chance to respond to the complaint;
- c) The Monitoring Officer about an alleged breach of the [Councillor's Code of Conduct](#) in part 4 of this Constitution.

Members of the public must not be violent, abusive or threatening to Councillors or Officers and must not willfully harm things owned by the Council, Councillors or Officers.



## **11 Suspension of the Constitution**

Any part of the Constitution may be waived or suspended by **Full Council** (or the **Cabinet** in relation to **Executive functions**) to the extent permitted within the Standing Orders in **Part 3** and the law.

## 12 Publication

Copies of the Constitution are available to view on the [Council's website](#) (which is the definitive version) or from Democratic Services:  
democraticservices@havant.gov.uk

The Monitoring Officer will make available a printed copy of this Constitution for Councillors if requested, but every Councillor has access to this Constitution online, which ensures it is always the most up to date version.

The Monitoring Officer will ensure this Constitution is available for inspection on the Council's website and at Council offices. Printed copies can be purchased by the local press and the public on payment of a reasonable fee.

# Part Two

## Responsibility For Functions

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**Section A: The Council's Management Structure, Diagram of Decision-Making Bodies, and Introduction to Decision Making**

**Section B: The Council**

**Section C: Local Choice Functions**

**Section D: The Cabinet (Executive Functions)**

Section D1: Shareholders Sub-Committee

**Section E: Non-Executive Committees**

Section E1: Planning Committee

Section E1A: Planning Policy Committee

Section E2: Licensing Committee

Section E3: Audit and Finance Committee

Section E4: Overview and Scrutiny Committee

Section E5: Standards Committee

**Section F: Joint Arrangements**

Section F1: East Hampshire District Council and Havant Borough Council Joint Human Resources Committee

Section F2: Independent Persons Panel

**Section G: Officer Scheme of Delegation**

Section G1: Introduction

Section G2: General Delegations

Section G3: Delegations to Chief Executive and Statutory Officers

Section G4: Proper Officer and specified officer functions

# Part Two, Section A Introduction to Decision Making

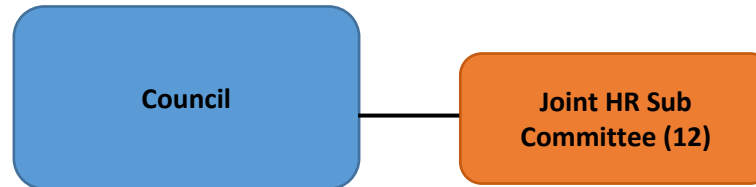
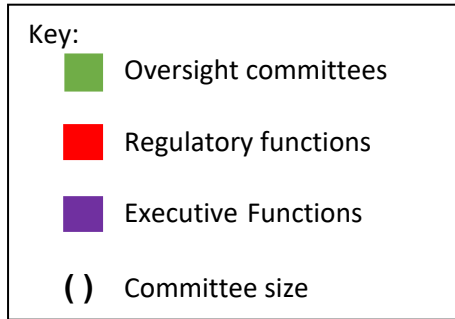
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## Management Structure

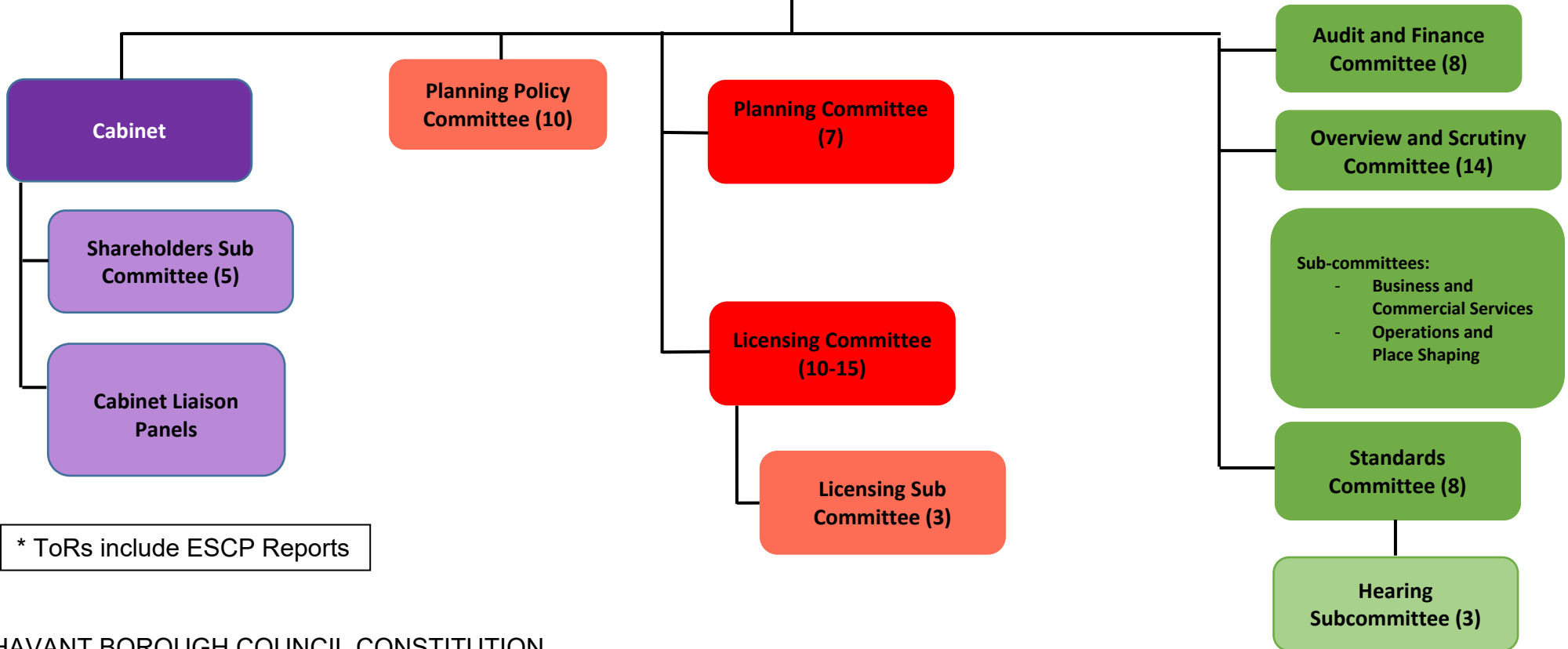
Details of the Council's Executive Leadership Team can be found at :

[Management structure | Havant Borough Council](#)

# Decision Making Structure



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\* ToRs include ESCP Reports

## 1. Introduction to Decision Making

The Council makes many decisions relating to matters within its area. This Part of the Council's Constitution sets out how these decisions are made so that members of the public are clear about what decisions are made and which part of the Council or individual has responsibility for particular types of decisions.

2 The Council's functions may be lawfully exercised by:

- a. The **Full Council**;
- b. The **Executive** (the collective term for the Leader, individual **Cabinet members**, the Cabinet or a committee of the Cabinet);
- c. Committees and sub-committees of the Full Council or the Cabinet;
- d. **Joint Committees**; and
- e. Officers.

All of the Council's functions are either "executive" or "non-executive". **Executive functions** are the responsibility of the **Executive** or one of its committees, sub-committees, **joint committees**, or an officer. **Non-executive functions** are the responsibility of the Full Council or one of its committees, sub-committees, **joint committees**, or an officer. "Functions" include all of the Council's powers and duties under legislation, that is, all of the activities the Council undertakes.

The **Executive** is the part of the Council which is responsible for most day-to-day decisions, including **key decisions**. The Executive is made up of the **Leader** and a number of executive Councillors (**Cabinet members**) selected by the Leader and which make up the **Cabinet**. The Executive might also establish committees and sub-committees. All key decisions will be published in advance in the Forward Plan in so far as they can be anticipated.

The Cabinet will ordinarily carry out all of the Council's **executive functions** that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally or allocate them to an individual Cabinet member or a committee of the Cabinet.

Under the Local Government Act 2000 ("the 2000 Act") functions are "**executive functions**", and the responsibility of the **Executive**, unless in law they are prevented from being exercised by the Executive. **Non-executive functions** (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to officers, planning and licensing. Non-executive functions may be delegated to committees, sub-committees or officers under Section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to

particular areas or functions. This record is set out in this **Part 2** of this Constitution, along with schemes of further delegation maintained by the Council's **Designated Officers**.

Where a function is delegated under this Constitution, that does not prevent the person or body that has delegated the function from removing the delegation or exercising the function concurrently, for example in the absence of a delegate making a decision.

## **1. Principles of decision-making**

1.1 The following principles will apply to all decision makers. Decision makers will:

- a. take into account all relevant considerations and ignore those which are irrelevant;
- b. take decisions which are proportionate to the desired outcome;
- c. undertake appropriate consultation where required and based on professional advice from officers;
- d. undertake a realistic evaluation of alternatives and options, giving reasons for their decision;
- e. consider relevant professional advice;
- f. have regard to statutory duties, such as Best Value and to environmental consideration and impacts
- g. respect human rights and equality of opportunity; and
- h. approach decision making on a transparent and open basis.

## **2. Record of decision-making**

2.1 The Council supports transparency of decision-making in the public interest. When decisions are taken, the decision record and/or minutes must be produced which will include the following information:

- a. who took the decision (the person or body);
- b. the details of the decision including the date it was made;
- c. the reasons for the decision;
- d. a summary of any alternative options considered and rejected by the officer, Councillor or decision-making body when the decision was made;

- e. details of any conflict of interest relating to the matter declared by any member of the decision-making body or by a Councillor who is consulted by the officer or Councillor who made the decision; and
- f. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer or **Standards Committee**.

### **3. Types of decision and the decision-takers**

- 3.1 When the **Full Council** makes decisions, it will comply with the Council Standing Orders.
- 3.2 When the **Executive** makes decisions, these will comply with the Cabinet Standing Orders.
- 3.3 When the Overview and Scrutiny Committee makes decisions, these will comply with the Overview and Scrutiny Standing Orders.
- 3.4 When committees and sub-committees make decisions, these will comply with the Committee Standing Orders.
- 3.5 On occasions, the Council, a Councillor or an officer will act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of an individual. When this happens, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.
- 3.6 Any area of responsibility that is not specifically listed under the matters reserved for Councillors in Sections B-F of this **Part 2** is deemed to be delegated to officers – **Designated Officers**.
- 3.7 **Part 2** Section B sets out the **non-executive functions** which are reserved to the **Full Council**.
- 3.8 **Part 2** Section C sets out the “local choice” functions, which are those that the Council can allocate to either the **Full Council** or the **Executive** for decision, and sets out which body has been allocated them.
- 3.9 **Part 2** Section D sets out the executive functions that are the responsibility of the **Leader**, individual **Cabinet members**, the **Cabinet** and any committees or sub-committees it establishes.
- 3.10 **Part 2** Section E sets out the **non-executive functions** which are reserved to the committees established by the **Full Council**.
- 3.11 **Part 2** Section F sets out the functions which are reserved to **joint committees** established by the Council.



- 3.12 **Part 2** Section G sets out the principles of the **Officer Scheme of Delegation** for all functions and powers not otherwise reserved to Councillors. Section H sets out functions reserved to the **Proper Officers** of the Council.

# Part Two, Section B

## The Council

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### 1 Functions of the Full Council

1.1 Only the Full Council will exercise the following functions:

- 1.1.1 Electing the Mayor and appointing the Deputy Mayor;
- 1.1.2 Electing the Leader of the Council each year;
- 1.1.3 Appointing to such other offices and/or positions as may be required under this Constitution or by law;
- 1.1.4 Agreeing and/or amending the terms of reference for committees, deciding on their composition, allocating the chairmen and vice-chairmen for each Council committee (and, where required, their political balance);
- 1.1.5 Agreeing the basis on which appointments to outside bodies should be made and appointing to outside bodies except where appointment to those bodies is an **executive function** or has been otherwise delegated;
- 1.1.6 Adopting the Constitution and making significant changes to the Constitution, including agreeing and/or amending the **Officer Scheme of Delegation** with respect to **non-executive functions** except where specifically delegated to the Monitoring Officer;
- 1.1.7 Approving and adopting the **Budget and Policy Framework**;
- 1.1.8 Approving the Council's Budget and levying Council Tax (NB. the setting of rents and service charges for Council properties to be determined by the Cabinet);
- 1.1.9 Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates within the Treasury Management Strategy Statement;
- 1.1.10 Making or revising a Council Tax Reduction Scheme;
- 1.1.11 Approval of the Community Infrastructure Levy Charging Schedule;
- 1.1.12 Making decisions about any matter in the discharge of an **executive function** where the **Cabinet** is minded to make the decision contrary to the Policy Framework or not wholly in accordance with the Budget (subject to urgency procedures contained in the **Budget and Policy Framework Standing Orders in Part 3**);

- 1.1.13 Considering any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the **Executive** and the Council cannot make a decision in relation to it);
- 1.1.14 Determining any matter which is properly referred to it for determination by a committee or sub-committee in relation to **non-executive functions**;
- 1.1.15 Adopting and/or amending a Councillors' Allowances Scheme following a report from the Independent Remuneration Panel;
- 1.1.16 Changing the name of the area, and conferring the title of Honorary Alderman or Freedom of the Borough (as an Honorary Freeman);
- 1.1.17 Approving the Annual [Pay Policy Statement](#);
- 1.1.18 Making payments or providing other benefits in cases of maladministration under Section 92 of the Local Government Act 2000;
- 1.1.19 Appointing the **Head of Paid Service**, designating an officer to act as **Monitoring Officer** and an officer to act as **Chief Finance Officer (Section 151 Officer)** and dismissing the Head of Paid Service, Chief Finance Officer (Section 151 Officer) or Monitoring Officer;
- 1.1.20 Appointing the Electoral Registration Officer and Returning Officer;
- 1.1.21 Approving the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of Council functions;
- 1.1.22 Designating streets for street trading under the Local Government (Miscellaneous Provisions) Act 1982;
- 1.1.23 Determining whether functions which are classified as "Local Choice" functions should be reserved to the **Full Council** or exercised by **Cabinet**;
- 1.1.24 Adopting the Council's **Code of Conduct for Councillors**, **Code of Conduct for Officers** and the **Councillor Officer Protocol**;
- 1.1.25 Adopting (or otherwise) Motions submitted in accordance with the Council and Committee Standing Orders except those that relate solely to an **executive function**;
- 1.1.26 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- 1.1.27 Approving Development Plan Documents (DPDs) prior to submission to the Secretary of State;

- 1.1.28 Approving any application to the Secretary of State in respect of any Housing Land Transfer pursuant to the Housing Act 1985;
- 1.1.29 Opting into arrangements for an appointing person or appointing an Auditor Panel pursuant to the Local Audit and Accountability Act 2014 to select an external auditor, manage the relationship and provide advice and recommendations to the Audit and Finance Committee;
- 1.1.30 Discharging all licensing functions and such other matters which must be reserved to the Full Council as specified in the Licensing Act 2003 (the “Act”), or any Regulations published in relation to the Act or any other legislation or any statute or regulations amending, consolidating or replacing them including approving, reviewing and revising any Statement of Licensing Policy in relation to the Licensing Act 2003;
- 1.1.31 Discharging all functions which must be reserved to Full Council as specified in the Gambling Act 2005, or any other ancillary regulations or legislative provisions amending, consolidating or replacing the same, including:
  - a. approving and revising any Statement of Gambling Policy;
  - b. resolving not to issue any casino premises licences in the next three years; and
- 1.1.32 All other matters which, by law, are reserved to the Council.

- 1.2 Where **Full Council** delegates functions to committees, sub-committees and decision making bodies under this Constitution, nominations to those committees, and changes to such nominations, shall be notified by the relevant Group Leader or Group Whip in writing or by email to the Director of Corporate Services and shall thereafter be published on the Council’s website. Such nominations shall be in accordance with the relevant **political balance** and numerical allocations determined by Council in relation to the body in question.
- 1.3 **Non-executive functions** may still be exercised by the Council even where delegated to a committee, sub-committee, body or officer elsewhere in this Constitution, subject to specific exceptions (for example Licensing Sub-Committee).

## 2 **Full Council Meetings**

There are four different types of Full Council meeting:

- a. The Annual Meeting of the Council, which will usually be held in May;
- b. Ordinary meetings;
- c. The Budget Meeting of Council, which is usually held in February;
- d. Extraordinary meetings, which will be called as and when required in accordance with the Council Standing Orders.

All Full Council meetings will be conducted in accordance with the Council Standing Orders.

### **3 Budget and Policy Framework**

#### **3.1 Budget Framework**

The Budget Framework includes the allocation of financial resources to different services and projects, the setting of virement limits (that is the transfer of funds between budget heads) and carry forward limits for budgets, proposed contingency funds and other provisions and reserves, council tax setting and other local taxation matters and decisions relating to the Council's treasury management activities including investments, borrowing limits and the control of capital expenditure. The Budget Framework is set out in the following:

- a. Medium Term Financial Strategy;
- b. Treasury Management Framework (including relevant policies and strategies);  
and
- c. Capital and Investment Strategies.

#### **3.2 Policy Framework**

3.2.1 By law, the Council must have a Policy Framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the **Full Council**, usually on the recommendation of the **Cabinet**, supplemented by other plans and strategies that the Council wishes to add.

3.2.2 The Policy Framework comprises:

- a. The Council's Corporate Strategy;
- b. The Havant Crime and Disorder Reduction Strategy;
- c. The Local Development Plan and Development Plan Documents;
- d. The Statement of Licensing Policy;
- e. The Statement of Gambling Policy; and
- f. Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by Full Council rather than the Cabinet.

# Part Two, Section C

## Local Choice Functions

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### Allocation of Local Choice Functions

Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the 2000 Regulations) makes provision for certain functions, known as “local choice functions” to be either **executive** or **non-executive functions**. The Council has determined that the responsibilities shall be allocated as follows:

Local Choice Functions		Decision Maker	Further Delegation
1	Any function under a Local Act not specifically excepted.	Full Council	
2	The determination of any appeal against any decision made by or on behalf of the Authority.	Planning Committee or Licensing Committee (as relevant)	Licensing Sub-Committee (if relevant)
3	Determination of appeals by employees of the Council in connection with dismissal, grievances and other issues arising in the course of their employment	Human Resources Committee	Human Resources Panel
4	Any function relating to contaminated land.	Cabinet	Executive Head of Place
5	The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Executive Head of Place
6	Functions relating to statutory nuisances pursuant to sections 79 to 81 of the Environmental Protection Act 1990	Cabinet	Executive Head of Place
7	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority’s area.	Licensing Committee	Executive Head of Place

8	<p>The appointment of any individual –</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(b) to any body other than</p> <p>(i) The Authority</p> <p>(ii) A joint committee of 2 or more Authorities or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>to outside bodies in connection with executive functions and the revocation of any such appointment.</p>	Cabinet	
9	<p>The appointment of any individual –</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(b) to any body other than</p> <p>(i) The Authority</p> <p>(ii) A joint committee of 2 or more Authorities or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>to outside bodies in connection with non executive functions and the revocation of any such appointment.</p>	Full Council	
10	<p>The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or section 330 of the Town and Country Planning Act 1990 as to interests in land</p>	Cabinet	Heads of Service
11	<p>The making of agreements with other local authorities for the placing of staff at the disposal of those authorities</p>	Human Resources Committee	Heads of Service

# Part Two, Section D

## The Cabinet (Executive) Functions

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### 1 Introduction

- 1.1 The **Leader** and **Cabinet** will carry out the Council's **executive functions**. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be **non-executive functions** are, by default, executive functions.
- 1.2 The **Cabinet** will ordinarily carry out all of the executive functions unless the Leader decides to discharge them personally or allocate them to an individual **Cabinet member** or a committee of the Cabinet. The Leader may do this at any time.
- 1.3 Where the **Cabinet** is exercising these functions, it may delegate those functions to a committee of the Cabinet or officers, but not to an individual **Cabinet member**.
- 1.4 Where an individual **Cabinet member** is exercising these functions, he or she may delegate those functions to officers.
- 1.5 Where **executive functions** have been delegated, that does not prevent the discharge of those functions by the person or body who delegated them; or the **Leader** or **Cabinet** from reviewing decisions made in the discharge of those functions in accordance with the provisions of this **Part 2**.
- 1.6 All **executive functions** not expressly reserved to the **Leader**, the **Cabinet**, a committee of the Cabinet or an individual **Cabinet member** are delegated to officers, subject to the restrictions on officer powers set out in The **Officer Scheme of Delegation** at **Part 2** Section G of the Constitution.
- 1.7 The **Cabinet** is responsible for making proposals to the **Full Council** about what its priorities should be and how it should use its resources. Once approved by the Full Council, these proposals become the Council's **Budget and Policy Framework**.
- 1.8 The **Cabinet** is responsible for making all of the necessary arrangements to ensure that the priorities identified by the Council are delivered within the **Budget and Policy Framework** set by the **Full Council**. If the Cabinet wishes to make a decision which is not in line with the budget or policy framework, this must be referred to the Full Council as a whole to decide.

### 2 Composition

- 2.1 The **Cabinet** comprises the **Leader** of the Council together with up to nine other **Councillors**, all appointed by the Leader. **Cabinet members**, including the Deputy Leader, are appointed at the Annual Meeting of the **Full Council** at which the Leader



is appointed. The Mayor and Deputy Mayor of the Council cannot be appointed to the Cabinet. No substitution arrangements will apply to the Cabinet.

- 2.2 The **Leader** and **Cabinet members** cannot sit on the Overview and Scrutiny Committee. They can sit on any other committees of the Council and can chair them, but Cabinet members should not be in a majority.
- 2.3 The **Leader** decides the scheme of delegation in respect of **executive functions** and may authorise the Cabinet, a committee of Cabinet, **Cabinet members** or officers to exercise executive functions from time to time.

### **3 The Leader**

- 3.1 The **Leader** will be a Councillor elected for a one year term to the position of Leader by simple majority of the **Full Council**. In the event that only one nomination is put forward, a vote will still be taken.
- 3.2 The Leader will hold office until:
  - a. They resign from the office; or
  - b. They cease to be a Councillor; or
  - c. They are removed from office by resolution of the **Full Council** that requires the support of a simple majority of those Councillors present; or
  - d. Annual Council one year after the term begins, when the position of Leader is elected by simple majority for the next year.
- 3.3 If the **Full Council** passes a resolution to remove the Leader, the Full Council shall elect another Councillor as Leader at the meeting at which the Leader is removed from office, or at a subsequent meeting of the Full Council. If there is a vacancy in the office of Leader for any other reason, the Full Council shall elect another Councillor as Leader at the first Full Council meeting after the vacancy occurs. In the interim the Deputy Leader will assume the responsibilities of the Leader.
- 3.4 The Leader may determine to exercise any of the Council's **executive functions** personally, or may arrange for the exercise of those functions by:
  - a. The **Cabinet**;
  - b. An individual **Cabinet member**;
  - c. A committee of the Cabinet;
  - d. An officer of the Council;
  - e. A joint committee

#### **4 The Deputy Leader**

- 4.1 The **Leader** shall appoint a Deputy Leader who shall be a member of the **Cabinet** and deputise for the Leader and carry out the functions delegated to the Leader in periods of their incapacity or absence.
- 4.2 The Deputy Leader shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until:
- a. They resign from the office;
  - b. They cease to be a **Cabinet member**;
  - c. They are removed from office by the Leader.
- 4.3 If for any reason the Leader is unable to act, or the office of Leader is vacant, and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place, or arrange for a Cabinet member to act in his/her place.

#### **5 Cabinet Members**

- 5.1 Each Cabinet member will be appointed by the Leader to cover one of the specific portfolio responsibilities (other than those reserved to the Leader) determined by the Leader.
- 5.2 A Cabinet member shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until:
- a. They resign from the office;
  - b. They cease to be a Councillor;
  - c. They are removed from office by the Leader.

#### **6 Individual Cabinet Member Decisions**

- 6.1 Cabinet members shall have the responsibilities as determined by the Leader from time to time.
- 6.2 Cabinet members exercising executive functions may delegate those functions to officers.
- 6.3 Details of [current Cabinet members and their portfolios](#) are available on the Council's website.

## **7 Proceedings of the Cabinet**

7.1 Proceedings of the Cabinet shall be conducted in accordance with the Cabinet Standing Orders.

7.2 The **Cabinet** may delegate the exercise of executive functions to a committee of the Cabinet or officers, but not to an individual **Cabinet member**.

## **8 Joint Executive Arrangements**

8.1 Where joint arrangements are established with one or more local authorities and/or their **executives** to exercise functions which are **executive functions**, any joint committee appointed in accordance with those arrangements may, subject to the terms of those arrangements, discharge those executive functions. See the Council's Joint Arrangements.

## **9 General responsibilities of the Executive**

9.1 The **Executive** is responsible for:

- a. ensuring the effective and efficient discharge of the functions delegated to them
- b. ensuring that any Council services within their remit are appropriate for and responsive to the needs and views of the Council's citizens, and are delivered effectively and efficiently
- c. ensuring that good external relationships and effective local liaison are promoted in relation to Council services within their remit
- d. monitoring the functions of the Council within their remit and contributing to any Council aims, objectives and policies
- e. determining policies and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing any necessary action
- f. determining the Council's views on matters specific to their areas of responsibility and related external matters
- g. ensuring the effective and efficient management of any services and resources within their remit and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person.

## **10 Matters reserved for the Executive**

10.1 The following functions shall be exercised only by the **Executive** and will be taken by the Cabinet, or a committee or sub-committee appointed by it, unless the **Leader** chooses to exercise these functions personally or allocate them to an individual Cabinet member or a committee of the Cabinet.

- 10.2 Where the **Cabinet** is exercising an **executive function**, in whole or in part, as set out below, the Cabinet is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it subject to any restrictions or constraints imposed by the law or this Constitution.
- 10.3 Insofar as such functions do not fall within any responsibilities delegated to individual **Cabinet members**, the Cabinet is responsible for:
- a. the development of policy/strategy for the Council, the monitoring of the effectiveness of policy/strategy and the review of policy/strategy (leading to revision and further development)
  - b. subject to consultation with the appropriate Scrutiny body or bodies, advising on Budget setting, including all other relevant financial matters, plans and proposals
  - c. ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs and the delivery of policy/strategy
  - d. monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, and requiring or approving any remedial action to be taken where it considers it necessary and appropriate
  - e. developing, monitoring and reviewing any Council Corporate personnel and human resources policies
  - f. approving, monitoring and reviewing the provision of services to the Council which are delivered by internal and/or external suppliers
  - g. overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally
  - h. overseeing relationships with, participation in and contribution to external organisations and partnerships, Local Government Association, or their successors or like bodies
  - i. ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively
  - j. monitoring and reviewing issues relating to relating to the implementation of strategy and policy
  - k. supporting any relevant regional arrangements relating to regional policy, transportation, planning and environmental issues
  - l. promoting employment and investment in the Council's area, including the preparation and approval of any Economic Development and Tourism Strategies

- m. dealing with any executive Local Development Framework functions which are delegated to the Council by the Secretary of State
- n. promoting the Council's policies relating to climate change from time to time in force

10.4 The Cabinet may discharge these functions itself, through a Cabinet committee or sub-committee or by delegation to an officer. In addition, the Cabinet may appoint such advisory panels, including any Councillor, as it considers appropriate to provide advice to it.

## **11 Responsibilities of all Cabinet Members**

11.1 The following are the general responsibilities which apply to all **Cabinet members**, and the specific responsibilities which apply to individual Cabinet members. These responsibilities include various functions which are delegated to each Cabinet member to discharge.

11.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the **Cabinet member** with the primary responsibility shall take the lead and exercise their delegated powers, but in consultation with all Cabinet members with an interest.

11.3 Each **Cabinet member** is the spokesperson for the policy area or 'portfolio' they are responsible for. They also:

- a. lead on developing Council policy and make recommendations to the Cabinet
- b. provide guidance to the **Cabinet** on delivering services within their portfolio area
- c. give guidance to the Cabinet on budget priorities
- d. monitor performance and make sure policy is delivered
- e. lead on improving Council services
- f. ensure that activities meet the Council's overall vision, core values and guiding principles
- g. represent the Council at a national and local level
- h. contribute to debate and decision-making
- i. work with all Councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before relevant Overview and Scrutiny meetings and responding to Overview and Scrutiny Committee reports
- j. make decisions within the responsibility of the Cabinet member's portfolio

- k. ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

## **12 Delegations to all Cabinet Members**

12.1 Each **Cabinet member** has the following authority delegated from the **Leader**:

- a. To incur expenditure or to make decisions in connection with the operation of services within the **Budget and Policy Framework** approved by Council, other than on contract award, IT projects, or where a more specific delegation is granted in this scheme, up to a value of £500,000.
- b. To authorise public consultation on strategies and policies within the **Budget and Policy Framework**.
- c. To comment on behalf of the Council on consultation papers issued by Government or any other public body.
- d. To approve the response to be taken to service action plans, external inspection reports, monitoring reports, scrutiny reports, and post-implementation reviews.
- e. Power to authorise officers to enter into agreements and arrangements with other local authorities, other public sector bodies and organisations undertaking activities of a public nature where this is expedient to the effective provision of services by the Council.
- f. Powers within the **Contract Standing Orders**.
- g. Determination of fees and charges for services in relation to **executive functions**.

## **13 Specific Responsibilities of individual Cabinet Members**

13.1 Details of [current Cabinet members and their portfolios](#) are available on the Council's website.

## **14 The Leader**

14.1 To chair the **Cabinet**.

14.2 To select the **Cabinet members** and determine their **portfolios of responsibility**.

14.3 To appoint committees and sub-committees of the Cabinet and to determine their powers.

14.4 To represent and act as ambassador for the Council (recognising the role of the Mayor of the Council).

14.5 To have overall responsibility for:

- a. policy development and design
  - b. Ministerial and Members of Parliament liaison
- 14.6 To act as Head of Cabinet.
- 14.7 To represent the Council's views on matters of corporate or strategic policy and any other matters which are within the Leader's terms of reference.
- 14.8 To submit to the **Cabinet**:
  - a. all policy and/or operational matters which have corporate implications or which cross the remits of the individual Cabinet members
  - b. any matter which crosses the portfolio of more than one Cabinet member, and which cannot be resolved, to the Cabinet for decision.
- 14.9 To provide appropriate and timely Cabinet responses to Scrutiny Committee recommendations and to monitor the implementation of those responses.
- 14.10 To act in the place of any Cabinet member having delegated authority under this scheme.

The [portfolio responsibilities](#) of the Leader can be found on the Council's website.

## **15 Cabinet Member with Portfolio Responsibility for Finance**

- 15.1 Power to determine applications for hardship rate relief referred to the Cabinet member by the Section 151 Officer due to the special circumstances, the scale of potential job losses or significant budget implications.
- 15.2 Power to approve requests not to demand repayment of renovation grants, disabled facility grants or other grants of a like kind upon breach of grant conditions.

## **16 Cabinet Member with Portfolio Responsibility for Contracts**

- 16.1 The acquisition (within the **Budget and Policy Framework** approved by Council) or the disposal of any interest in land or buildings at best consideration.
- 16.2 To authorise any lettings, lease renewals, rent reviews or licenses (at best consideration) either by the Council or to the Council, in respect of which the rent or licence payment does not exceed £150,000 per annum, in the case of lease renewals, rent and licence fee reviews the limit of £150,000 relates to the payment sum prior to the transaction.
- 16.3. Power to authorise works on Council land or buildings, within the annual Capital Programme.

## **17 Cabinet Member with Portfolio Responsibility for Planning**

- 17.1 To authorise comments on the Development Plan or Local Development Framework of other local authorities.
- 17.2 Approval of draft Supplementary Planning Guidance and Supplementary Planning Documents for publication for public consultation, with the approval of the final Guidance/Document to be made by Cabinet.
- 17.3 To approve the annual Planning monitoring report.

## **18 Cabinet Member with Portfolio Responsibility for Traffic Management**

- 18.1 To authorise public consultation on proposed traffic regulation and parking orders.
- 18.2 To authorise the final decision on implementing traffic regulation orders where:
  - a. 10 or more representations from separate addresses are received (and not withdrawn) which are in objection to the officer recommendation; and/or
  - b. Where a local ward Councillor has called in the proposed works.
- 18.3 Power to authorise officers to make temporary orders and other arrangements to enable events of a public ceremonial or celebratory nature in the Borough.

## **19 Scope of, and Limitations to, Individual Cabinet Member Decision-Making**

- 19.1 All decisions taken by individual **Cabinet members** will be notified, by email, to all Councillors as soon as possible after the decision has been taken. The record of all decisions shall be recorded and publicised in accordance with the Access to Information Standing Orders.
- 19.2 The procedure for “Call-In” is set out in the Overview and Scrutiny Standing Orders.
- 19.3 **Cabinet members** are empowered to make delegated decisions as set out here except:
  - a. Decisions already taken by the **Cabinet** or by an officer acting under delegated powers
  - b. Decisions involving a departure from the Council’s **Budget and Policy Framework** or any **Cabinet** or Committee Policy. (This would include any variations or supplementary estimates and is subject to the provisions of the Finance and Contract Procedure Rules)
  - c. Decisions involving expenditure or savings of £500,000 or more
  - d. Decisions which the **Leader** requests are not taken by an individual Cabinet member but are referred to Cabinet because of their significance or sensitivity.



- 19.4 **Cabinet members** may take a **key decision** subject to the limitations above and subject to the usual requirements in relation to key decisions (including advance publication) detailed in the Access to Information Standing Orders.
- 19.5 **Cabinet members** may refer a decision to the **Cabinet**.
- 19.6 **Cabinet members** may delegate a function or decision to an officer. If a function is so delegated, the Cabinet member shall complete a written record in the agreed form to be recorded in accordance with Council procedure.

## **20 Procedure for Taking Individual Cabinet Member Decisions**

- 20.1 Decisions must be made following consultation with one or more of the following officers/Councillors as appropriate:
- a. **Chief Executive**
  - b. Appropriate Executive Head or Head of Service
  - c. **Monitoring Officer**
  - d. **Chief Finance Officer**
  - e. Where there are implications across portfolios – other appropriate Cabinet member(s)
- 20.2 The **Cabinet member** must take into account professional, legal and financial advice and implications.
- 20.3 If any of the above officers give advice that a decision would fall outside the powers of the Cabinet member, the Cabinet member shall refer the matter to the **Leader** or the **Cabinet**.
- 20.4 Where it is not clear in which **portfolio** an issue sits, the Leader will decide.
- 20.5 Decisions by individual Cabinet members must be recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically.
- 20.6 Any decisions by individual **Cabinet members** which constitute **key decisions** must follow the statutory requirements in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and provided for in the Access to Information Standing Orders.

## **21 Committees of the Executive**

- 21.1 The **Leader** or the **Cabinet** may delegate any of its functions to a committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Leader or the Cabinet may establish decision-making committees which may only include **Cabinet**

**members.** The Leader or the Cabinet may establish advisory committees, the membership of which need not be limited to Cabinet members. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.

- 21.2 Committees established by the **Leader** or the **Cabinet** shall be empowered to perform these functions with immediate effect unless the Leader or the Cabinet impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Cabinet and all advisory or consultative liaison committees will continue in operation only until the first meeting of the Cabinet in the next civic year following their establishment when they must be expressly renewed or the cease to exist.
- 21.3 All functions that have been delegated to a committee established by the Leader or the Cabinet can still be taken by the Cabinet as the parent body (where the Cabinet has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual **Cabinet member** or an alternative committee of the Cabinet.
- 21.4 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to **Full Council** in due course for noting in the Council's Constitution.

## SECTION D1 SHAREHOLDERS SUB-COMMITTEE

The purpose of the Shareholders Sub-Committee is to approve and oversee the Council's strategic objectives across Havant Borough **Council's companies** and to support the development of these companies in line with the Council's regulations and ambitions. The Shareholders Sub-Committee will provide strategic oversight of the Council's companies and provide assurance to the **Cabinet** that these companies are compliant with the Council's constitution, rules and procedures; achieving best value; and are fit for purpose.

The Shareholders Sub-Committee will not have operational control over the **Council's companies**. The day-to-day operation of each company is the responsibility of the Directors of each company. Operational liaison with the Council's companies will be between the client service of the Council and the managing Director of each company.

### 1 Composition

- 1.1 The Shareholders Sub-Committee will comprise the **Leader** of the Council, the **Cabinet Member with Portfolio Responsibility** for Finance and 3 other Cabinet Members.
- 1.2 The **Head of Paid Service**, the **Chief Finance Officer (Section 151 Officer)** and the **Monitoring Officer** and representatives of the group companies shall be invited to all meetings on a non-voting basis.
- 1.3 The Leader of the Council shall be elected as Chairman.

### Quorum

- 1.4 The Shareholders Sub-Committee quorum will be 3 Councillors.

### Reserves

- 1.5 Members of the Shareholders Sub-Committee may appoint reserve members from within the Cabinet.

### Competency

- 1.6 All members of the Shareholders Sub-Committee and Cabinet members attending as reserves must:
  - a. have undertaken mandatory training in the relevant law and procedures which relate to the Sub-Committee's work; and
  - b. undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

## **2 Matters reserved for the Shareholders Sub-Committee**

- 2.1 The Shareholders Sub-Committee has the right to access the following information from **Council companies** to undertake the work of the Sub-Committee:
- a. The statutory accounts of the company;
  - b. Business plans including risk registers;
  - c. Reports on major projects;
  - d. Any reports on engagement and commercial activity; and
  - e. Any additional information it considers necessary to undertake the work of the Sub-Committee.
- 2.2 To hold the **Council's companies** to account, providing strategic oversight of the arrangements with the companies including the delivery by the companies of the Council's policy aims
- 2.3 To be consulted on the following by the **Council's companies**:
- a. the strategy, business plan, financial and corporate performance of the company;
  - b. Company policies;
  - c. matters reserved for shareholder approval as and when appropriate; and
  - d. emerging issues and opportunities which may impact the company, to discuss solutions proposed by the company.
- 2.4 To provide assurance that:
- a. strategic commissioning arrangements for the Council's companies are fit for purpose or provide recommendations to ensure that they are;
  - b. the overarching performance arrangements for each of the Council's companies are fit for purpose or provide recommendations to ensure that they are;
  - c. the arrangements for Council's companies comply with the Public Contract Regulations 2015; and
  - d. all Council's companies are complying with the relevant statutory and regulatory framework for their respective areas of operation.
- 2.5 To prepare and maintain a strategic risk register in relation to the Council's companies.

- 2.6 To advise the **Cabinet** and make recommendations to the Cabinet on:
- a. the exercising of any shareholder consents;
  - b. the approval as shareholder of the business plans of each of the Council's companies including providing strategic advice to the Cabinet on the robustness and suitability of each of the business plans;
  - c. any proposals to make a significant capital or revenue investment in any of the Council's companies; and
  - d. on any decisions that need to be made in relation to the overall commissioning arrangements.
- 2.7 To review and analyse the annual statement of accounts of each of the **Council's companies**.
- 2.8 To review any proposal by the **Council's companies** to submit a tender for services to a client other than the Council.
- 2.9 To determine the distribution of any surplus or the issue of any dividends from any of the **Council's companies**
- 2.10 To prepare and present a strategic report to the **Cabinet** at least once a year on the overall governance, financial and performance arrangements for the **Council's companies**.

# Part Two, Section E

## Non-Executive Committees

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To discharge non-executive functions which are not reserved to Full Council alone, the Council has established the following ordinary committees:

**Section E1: Planning Committee**

**Section E1A: Planning Policy Committee**

**Section E2: Licensing Committee**

**Section E3: Audit and Finance Committee**

**Section E4: Overview and Scrutiny Committee**

**Section E5: Standards Committee**

**Section E6: Human Resources Committee**

The terms of reference of these Committees and their delegated powers are set out in the following pages.

## **SECTION E 1 – PLANNING COMMITTEE**

### **1 Committee Form and Structure**

#### **Committee Scope**

- 1.1 The majority of planning applications are dealt with by officers under delegated powers from the Planning Committee, as they are relatively straightforward.
- 1.2 Where development control functions are discharged by the Planning Committee, the meeting will consider applications and related planning matters which are being determined or considered by the Council as the Local Planning Authority.

#### **Composition**

- 1.3 The Planning Committee will comprise 7 Councillors in **political balance**.
- 1.4 The Chairman will be appointed by **Full Council** annually.

#### **Quorum**

- 1.5 The Planning Committee quorum will be 3 Councillors.

#### **Reserves**

- 1.6 Each group may appoint reserve members.

#### **Competency**

- 1.7 All members of the Committee and Councillors attending as reserves must:
- a. have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work;
  - b. undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director; and
  - c. undertake an assessment of competency and knowledge.
- 1.8 The Planning Committee shall observe the **Councillors' Planning Code of Conduct**.

### **2 Matters reserved for the Planning Committee**

- 2.1 To exercise the Council's functions relating to town and country planning and development control, footpaths and other rights of way.
- 2.2 To determine all applications and consultations submitted to the Council on any planning matter:

- a) Which is contrary to the provisions of an approved development plan or adopted planning policy approved by the Council, and which is recommended for approval;
- b) Submitted by or on behalf of a Councillor (or their spouse or partner) or by any member of the Council's staff (or their spouse or partner);
- c) On Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Head of Planning, in consultation with the Chairman of the Planning Committee, determines should be subject to members' consideration;
- d) Which the Head of Planning considers should be presented to Planning Committee for decision including for example, those developments that in their opinion are particularly controversial, likely to be of significant public interest, or which may have a significant impact on the environment; or
- e) Where, within four weeks of its receipt by the Council, or within seven days of being notified that it is intended to grant permission for an application:
  - i) Where five or more individual letters<sup>1</sup> - each raising material planning objections<sup>2</sup><sup>3</sup> have been received by the Council; and
  - ii) The local ward Councillor (or in the absence of the local ward Councillor the Chairman or Vice Chairman of the Planning Committee) requests in writing to the Head of Planning, giving good material planning reasons, that the application be determined by the Planning Committee and the referral is agreed by the Chairman of the Planning Committee, the Head of Planning and the **Cabinet member with portfolio responsibility** for Planning.
- f) Under the Town and Country Planning Act 1990, Listed Building Consent, Conservation Area Consent and related matters and any other planning legislation concerning granting planning permission for development already carried out and without compliance with conditions previously attached;
- g) Where the application is to vary or remove a condition that was imposed by the Planning Committee;
- h) Where the development in question is materially contrary to the policies of an approved development plan or adopted planning policy approved by the Council;

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<sup>1</sup> To be individual each letter must be from a different household and be written so that it is unique to the objector. Letters based upon a common template or pro forma shall not be treated as individual letters. Letters which state that the author objects but do not give reasons will not be counted. Signatures on petitions will not be counted as individual objections.

<sup>2</sup> To be material the objection must be related to the development and use of land in the public interest and must fairly and reasonably relate to the application concerned.

<sup>3</sup> In the case of applications for the approval of reserved matters following the grant of outline planning permission representations from third parties will not be treated as objections when they raise issues that are, in the opinion of the Head of Planning), not material to the determination of such applications in accordance with the relevant statutory provisions.



- i) Where a local ward Councillor has requested the breach of planning control be referred to Planning Committee for decision; or
  - j) Where a legal agreement relating to that development is required
- 2.3 Make orders under planning powers relating to comprehensive development areas, the discontinuance of the use of land, or the removal of buildings and works where compensation may become payable.
  - 2.4 To receive the draft Havant Borough Council Local Plan from the Planning Policy Committee for consideration and approval for public consultation.
  - 2.5 To receive the draft Havant Borough Council Supplementary Planning Documents from the Planning Policy Committee for consideration and approval for public consultation.
  - 2.6 To receive the draft Havant Borough Council Community Infrastructure Levy (CIL) charging schedule and draft spending protocol from the Planning Policy Committee for consideration and approval for public consultation.
  - 2.7 To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.
  - 2.8 To exercise a consultation and advisory role, commenting upon the content of proposed planning policy developed by the Planning Policy Committee and upon the effectiveness of existing policies employed in development control decisions.
  - 2.9 To determine applications for **Large Scale Major Development**.

## **SECTION E 1 A – PLANNING POLICY COMMITTEE**

### **1 Committee Form and Structure**

#### **Committee Scope**

- 1.1 The purpose of the Planning Policy Committee is to consider planning policy matters and to make recommendations to Planning Committee, Cabinet or Council, as appropriate on planning policy issues, particularly in connection with the Havant Local Plan.

#### **Composition**

- 1.2 The Planning Policy Committee will comprise 10 Councillors in **political balance**.
- 1.3 The Chairman will be appointed by **Full Council** annually.

#### **Quorum**

- 1.4 The Planning Committee quorum will be 6 Councillors.

#### **Reserves**

- 1.5 Reserve members are not permitted.

#### **Competency**

- 1.6 All members of the Planning Policy Committee must:
- a. have undertaken mandatory training in the relevant law and procedures which relate to the committee's work; and
  - b. undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director; and
- 1.7 The Planning Policy Committee shall observe the Planning Protocol.

### **2 Matters reserved for the Planning Policy Committee**

- 2.1 To formulate the Havant Borough Council Local Plan for referral to the Planning Committee for consideration and approval for public consultation
- 2.2 To formulate the draft Havant Borough Council Supplementary Planning Documents for referral to the Planning Committee for consideration and approval for public consultation
- 2.3 To formulate the draft Havant Borough Council Community Infrastructure Levy (CIL) charging schedule and draft spending protocol for referral to the Planning Committee for consideration and approval for public consultation

- 2.4 To receive reports, expert advice and opinion on planning policy issues and to consider and make recommendations.

## **SECTION E 2 – LICENSING COMMITTEE**

### **1 Committee Form and Structure**

- 1.1 The Licensing functions of the Council shall be carried out by the following bodies:
- a. A full Licensing Committee of 10-15 Councillors in **political balance**
  - b. Sub-committees to be established by the Licensing Committee on an ad hoc basis, comprising 3 Councillors drawn from the full Licensing Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2005 and 'general' licensing matters.

#### **Composition**

- 1.2 The full Licensing Committee will comprise not less than 10 and not more than 15 Councillors in **political balance**.
- 1.3 The Chairman will be appointed by **Full Council** annually.
- 1.4 Sub-committees established by the Licensing Committee on an ad hoc basis will comprise 3 Councillors from the full Licensing Committee.

#### **Quorum**

- 1.5 The Licensing Committee quorum will be 4 Councillors. The sub-committee quorum will be 3 Councillors.

#### **Reserves**

- 1.6 Each group may appoint reserve members.

#### **Competency**

- 1.7 Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.
- 1.8 All members of the Licensing Committee and Councillors attending as reserves must:
- a. have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and
  - b. undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

## **2 Matters reserved for the Licensing Committee**

### **2.1 Functions under both the Licensing Act 2003 and the Gambling Act 2005:**

- a. To determine applications for premises licences where relevant representations have been made;
- b. To determine applications for provisional statements where relevant representations have been made;
- c. To determine valid applications for review of premises licences where relevant representations have been made;
- d. To determine whether a representation is irrelevant, frivolous or vexatious;
- e. To determine whether to object when the Council is a consultee and not the relevant authority considering an application;
- f. To decide on any other matter where it is necessary or desirable for members to make that decision.

### **2.2 Functions under the Licensing Act 2003 alone:**

- a. To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
- b. To determine applications to vary designated premises supervisors following police objections;
- c. To determine applications for transfer of premises licences following police objections;
- d. To consider police objections made to interim authority notices;
- e. To determine applications for club premises certificates where relevant representations have been made;
- f. To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
- g. To determine valid applications for review of club premises certificates;
- h. To decide whether to give counter notices following police objections to temporary event notices;
- i. To determine applications for grants of personal licences following police objections;

- j. To determine applications for renewals of personal licences following police objections;
- k. To determine applications for grants of personal licences with unspent convictions;
- l. To determine applications for grants of personal licences with convictions of offence during the application process;
- m. To decide on revocation of personal licences where convictions come to light after grant;
- n. To determine valid applications for review of premises licenses.

### 2.3 Functions under the Gambling Act 2005 alone:

- a. To determine applications for variations of premises licences where relevant representations have been made;
- b. To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- c. To determine applications for the re-instatement of premises licences where relevant representations have been made;
- d. To decide whether to give counter notices following objections to temporary use notices;
- e. To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;
- f. To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;
- g. When the licence holder requests a hearing, to determine orders removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;
- h. To determine applications for the grant or variation of licensed premises gaming machine permits for 2 or more machines;
- i. To determine applications for the grant of temporary event notices where relevant representations have been made;
- j. To determine applications for the grant of street trading licenses where relevant representations have been made;

- k. To determine applications for the grant of pavement café licenses where relevant representations have been made;
- l. To determine valid applications for review of premises licenses.

### **3 General Provisions Relating to the Non-Statutory Licensing functions**

- 3.1 The Licensing Committee and its sub-committees have all the functions which are stated not to be the responsibility of the Council's Executive in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S.I. 2853, as amended, or further amended, in any statute or subordinate legislation. The sub-committees' remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments, dog breeding establishments, hackney carriage licenses (including vehicle and drivers licenses); private hire licenses (including vehicle, drivers and operators licenses and school transport drivers' licences); licensing marriage and entertainment and shops and food premises.
- 3.2 The Licensing Committee make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.
- 3.3 Non-Statutory Licensing Functions reserved to the Licensing Committee:  
To consider
  - (a) whether or not to suspend, and/or
  - (b) revoke, and/or
  - (c) refuse to renew, and/or
  - (d) amend any conditions of any existing licence/permit/consent in any case which is referred to the Licensing Committee by the relevant **Designated Officer** where the holder has been:
    - (i) convicted of an offence involving dishonesty, indecency or violence, and/or
    - (ii) convicted of an offence or has failed to comply with the statutory provisions relating to the issue of any licence/permit/consent, or
    - (iii) in breach of any conditions attached to the issue of any licence/permit/consent, and/or
    - (iv) any other reasonable cause.
- 3.4 To determine applications for grants of licence/permit/consent with unspent convictions;

- 3.5 To determine applications for grants of licence/permit/consent with convictions of offence during the application process.
- 3.6 The Licensing Committee has the power to make final decisions on behalf of the Council in relation to its functions in this part.



## **SECTION E 3 – AUDIT AND FINANCE COMMITTEE**

### **1 Committee Form and Structure**

#### **Committee Scope**

- 1.1 The success of the Audit and Finance Committee depends upon its ability to remain apolitical. It must adopt a non-political approach to its meetings and discussions at all times. Remaining apolitical also places a duty on Councillors not to make inappropriate use of information provided to the Committee for other purposes. The Committee's responsibilities shall include the monitoring of the Council's role as shareholder of Council companies and the effectiveness of the arrangements in this regard.

#### **Composition**

- 1.2 The Audit and Finance Committee will comprise 8 Councillors in **political balance**.
- 1.3 Members of the Committee must not be **Cabinet members**.
- 1.4 The Chairman will be appointed by **Full Council** annually.

#### **Quorum**

- 1.5 The Audit and Finance Committee quorum will be 3 Councillors.

#### **Reserves**

- 1.6 Each group may appoint reserve members.

#### **Competency**

- 1.7 All members of the Audit and Finance Committee and Councillors attending as reserves shall:
- 1.7.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and
  - 1.7.2 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

### **2 Matters reserved for the Audit and Finance Committee**

#### **Governance, Risk and Controls**

- 2.1 The Committee has the right to access to all the information it considers necessary to undertake the work of the Committee and may receive reports and refer matters to Internal and External Auditors.

- 2.2 To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances, including the **Code of Corporate Governance**.
- 2.3 To review and approve the **Annual Governance Statement** and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
- 2.4 To consider the Council's arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements.
- 2.5 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- 2.6 To monitor the effective development and operation of risk management in the Council.
- 2.7 To monitor progress in addressing risk related issues reported to the Committee.
- 2.8 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.
- 2.9 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- 2.10 To monitor the counter-fraud strategy, actions and resources.
- 2.11 To review the governance and assurance arrangements for significant partnerships or collaborations.
- 2.12 To review and monitor the Council's compliance with public sector financial and audit standards and guidance, in accordance with the **CIPFA** Codes and Accounts and Audit Regulations.
- 2.13 To review and monitor the Council's treasury management arrangements in accordance with the **CIPFA** Treasury Management Code of Practice.

### **3 Internal Audit**

- 3.1 To ensure that the Council has a sound system of internal control which -
  - 3.1.1 facilitates the effective exercise of its functions and the achievement of its aims and objectives;
  - 3.1.2 ensures that the financial and operational management of the Council is effective;

- 3.1.3 includes effective arrangements for the management of risk;
- 3.1.4 ensures compliance with policies, procedures and statutory requirements;  
and
- 3.1.5 safeguards the Council's assets and interests.
- 3.2 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- 3.3 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 3.4 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 3.5 To make appropriate enquiries of both management and internal audit to determine if there are any inappropriate scope or resource limitations.
- 3.6 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal audit. To approve and periodically review safeguards to limit such impairments.
- 3.7 To consider reports from the internal auditor on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - 3.7.1 Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
  - 3.7.2 Regular reports on the results of the Quality Assurance and Improvement Programme;
  - 3.7.3 Reports on instances where the internal audit function does not conform to the **Public Sector Internal Audit Standards** and **Local Government Application Note**, considering whether the non-conformance is significant enough that it must be included in the **Annual Governance Statement**.
- 3.8 To consider the internal auditor's annual report:
  - 3.8.1 The statement of the level of conformance with the **Public Sector Internal Audit Standards** and **Local Government Application Note** and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit
  - 3.8.2 The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the

summary of the work supporting the opinion – these will assist the Committee in reviewing the **Annual Governance Statement**

- 3.9 To consider summaries of specific internal audit reports as requested.
- 3.10 To receive reports outlining the action taken where internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 3.11 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- 3.12 To consider a report on the effectiveness of internal audit to support the **Annual Governance Statement**, where required to do so by the Accounts and Audit Regulations.
- 3.13 To provide free and unfettered access to the Audit and Finance Committee Chairman for the internal auditor, including the opportunity for a private meeting with the Committee.

#### **4 External Audit**

- 4.1 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
- 4.2 To consider the external auditor's annual audit letter, relevant reports, and the report to those charged with governance.
- 4.3 To consider specific reports as agreed with the external auditor.
- 4.4 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 4.5 To commission work from internal and external audit.
- 4.6 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

#### **5 Financial Reporting**

- 5.1 To review and approve the annual **Statement of Accounts**. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the **Full Council**.
- 5.2 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## **6 Accountability Arrangements**

- 6.1 To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
- 6.2 To report to **Full Council** on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.
- 6.3 To publish an annual report on the work of the Committee.

## **7 Related Functions**

- 7.1 To approve and monitor Council policies relating to whistleblowing and anti-fraud and corruption.
- 7.2 Subject to the requirements set out below, to consider all findings of the Local Government and Social Care Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.
  - 7.2.1 There are statutory obligations which will, in some circumstances, require reports to be taken to **Cabinet** or **Full Council**.
  - 7.2.2 The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Finance Committee's agenda.
- 7.3 To undertake an annual review of the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA), ensuring compliance with the relevant Codes of Practice.
- 7.4 To review any issue referred to it by the **Chief Executive, Chief Finance Officer, Monitoring Officer** or any Council body.

## SECTION E 4 – OVERVIEW & SCRUTINY COMMITTEE

### 1 Committee Form and Structure

#### Committee Scope

- 1.1 The Council fully supports the role of its Overview and Scrutiny Committee in holding the **Cabinet** and others to account in discharging their functions and in policy formulation. The Council believes that the important parts of the role are:
- (i) to assist the **Full Council** and **Cabinet** in reviewing its major plans, policies and strategies, which will set the climate in which the Cabinet and other decision-making bodies are required to operate;
  - (ii) to assist with policy formulation;
  - (iii) to undertake specific reviews of the Council's organisation and service provision so that improvements can be made to service delivery.

#### Composition

- 1.2 The Overview and Scrutiny Committee will comprise 14 Councillors in **political balance**.
- 1.3 Members of the Committee must not be Cabinet members.
- 1.4 The Chairman and Vice Chairman will be appointed by **Full Council** annually.
- 1.5 Either the Chairman or the Vice Chairman must be a member of a minority party, or an independent. Although nothing will preclude the Council from selecting a Chairman who is a member of a minority party, or an independent, as the Chairman at any time, in the event that a minority party holds one third of the seats on the Council, then the Chairman must be selected from the membership of that party. In the event that the Chairman is from the majority party then the Vice Chairman must be selected from a minority party or be an independent.

#### Quorum

- 1.6 The Overview and Scrutiny Committee **quorum** will be 5 Councillors.

### 2 Matters reserved the for Overview and Scrutiny Committee

The Overview and Scrutiny Committee:

- 2.1 will discharge the Council's functions under section 9F Local Government Act 2000;
- 2.2 will be responsible for the Council's scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny in accordance with the objectives of the Council Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law. At

the first meeting each year of the Overview and Scrutiny Committee, it will consider and agree the work programme.

- 2.3 may establish such sub-committees or task and finish groups, appointing the Chairman in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis. At the first meeting each year of the Overview and Scrutiny Committee, it will establish sub-committees or task groups and confirm the terms of reference specifically to consider the following areas (based on relevant existing portfolios of Portfolio Holders at the beginning of the municipal year) as an element of the Committee's annual work programme, and to report back to the Overview and Scrutiny Committee on any recommendations:
  - 2.3.1 Business and Commercial Services, including any relevant strategic partnerships
  - 2.3.2 Operations and Place Shaping, including regeneration issues.
- 2.4 will, as part of the overall role, ensure the Chief Executive and Corporate Leadership Team discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function
- 2.5 will scrutinise decisions of or actions taken by the **Cabinet**, and offer advice or make recommendations on the matter under scrutiny once the Committee has considered the issues
- 2.6 may scrutinise matters coming before **Cabinet** for decision and respond appropriately to the Cabinet on the matter once the Committee has considered the issues fully
- 2.7 will review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the **Cabinet** and make reports or recommendations to the **Full Council**, or appropriate body of the Council
- 2.8 may refer to the Council or appropriate committee/sub-committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the **Full Council** or the committee or sub-committee and may, if requested, offer any views or advice to the **Cabinet** in relation to any matter referred to the committee for consideration
- 2.9 may undertake reviews with a cross-service approach wherever possible and make reports and recommendations to the **Full Council** (or other appropriate Council body) or the **Cabinet** to assist in the review of policies and strategies
- 2.10 may offer advice and make recommendations to the appropriate body of the Council on the review of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task Group
- 2.11 in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations

- 2.12 may review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the **Cabinet** or appropriate body of the Council of its findings
- 2.13 may advise the **Cabinet** and **Full Council**, as appropriate, of the Committee's response to the formulation of the Council's Budget and performance management reports
- 2.14 may recommend that a decision made but not yet implemented, and taken in respect of a function which is the responsibility of the **Cabinet** be reconsidered by the Cabinet
- 2.15 may scrutinise decisions after implementation to examine their effect and outcomes
- 2.16 may make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants
- 2.17 may review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice
- 2.18 may give partner authorities notice in writing requiring them to have regard to the report or recommendations of the Committee in exercising their functions
- 2.19 may invite expert witnesses, Councillors, officers and partners to answer questions
- 2.20 will ensure, in conjunction with the **Standards Committee**, that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance
- 2.21 will consider and advise the **Cabinet** in respect of "call-in" notices under the Council's relevant procedures.
- 2.22 will work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.
- 2.23 will create Task Groups and set their Terms of Reference, to fulfil the Overview and Scrutiny requirements of the Council and the Annual Overview and Scrutiny Work Programme.
- 2.24 will approve an Annual Overview and Scrutiny Work Programme, to be kept under review and updated as required.
- 2.25 will produce an Annual Report to **Full Council** for the scrutiny process.
- 2.26 will report to **Full Council** as required on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.



2.27 will discharge the Council's functions in relation to the reduction of crime and disorder scrutiny pursuant to the Crime and Disorder Act 1998.

## SECTION E 5 – STANDARDS COMMITTEE

### 1 Committee Form and Structure

#### Composition

- 1.1 The **Standards Committee** will comprise 8 Councillors in **political balance**.
- 1.2 The Chairman will be appointed by **Full Council** annually.
- 1.3 The Vice-Chairman will be appointed by the **Standards Committee** and will be from a different political group from the Chairman.

#### Quorum

- 1.4 The **Standards Committee quorum** will be 3 Councillors.

#### Reserves

- 1.5 Each group may appoint reserve members.

#### Competency

- 1.6 All members of the **Standards Committee** and Councillors attending as reserve members shall:
  - 1.6.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and
  - 1.6.2 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

### 2 Matters reserved for the Standards Committee

- 2.1 To assist the Council in fulfilling its duty under the Localism Act 2011 to promote and maintain high standards of conduct by Councillors and co-opted Councillors of town and parish councils.
- 2.2 To advise the Council on the adoption or revision of its **Code of Conduct for Councillors**.
- 2.3 To monitor and advise the Council about the operation of its **Code of Conduct for Councillors** the light of best practice and any changes in the law.
- 2.4 To approve the arrangements for dealing with allegations that a Councillor or a town/parish Councillor within the district has failed to comply with the relevant Councillors' Code of Conduct.

- 2.5 To determine whether a Councillor or town/parish Councillor has failed to comply with the relevant Code of Conduct.
- 2.6 Where the Committee finds that a failure to comply with the Code of Conduct has occurred, to determine what action, if any, to take and to apply the sanction or recommend to Council to apply an appropriate sanction.
- 2.7 To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011 and independent persons under other secondary legislation.
- 2.8 To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the **Monitoring Officer** or to appeal against a determination by the Monitoring Officer.
- 2.9 To advise the Council on, and review as necessary, the arrangements for dealing with complaints or any local protocols regulating the conduct of Councillors and to deal with allegations of breach of any such protocol.
- 2.10 To respond on behalf of the Council to national reviews and consultations on standards related issues.
- 2.11 To consider and make recommendations to **Full Council** on any other matter that may be referred to the **Standards Committee** relating to the conduct and training of Councillors.
- 2.12 To consider amendments to the Constitution and recommend proposals to Full Council for approval, except where specifically delegated to the Monitoring Officer.

## SECTION E 6 –HUMAN RESOURCES COMMITTEE

### 1 Committee Form and Structure

#### Committee Scope

- 1.1 The purpose of the Human Resources Committee is to take a corporate strategic view of the Councils' Human Resource policies to ensure they contribute effectively to the overall delivery of the corporate strategy. The **Committee** will appoint **Chief Officers** to the Councils and recommend appointment of the Head of Paid Service to the relevant Authority for **Full Council** to determine.

#### Composition

- 1.2 The Human Resources Committee will comprise six Councillors in **political balance**. One member of Cabinet must be appointed to the Human Resources Committee.
- 1.3 The Chairman will be appointed by Full Council annually.

#### Quorum

- 1.4 The Human Resources Committee **quorum** will be three Councillors.

#### Reserves

- 1.5 The Councils may appoint reserve members.

#### Competency

- 1.6 All members of the Human Resources Committee and Councillors attending as reserves must:
- 1.6.1 have undertaken mandatory training in the relevant law and procedures which relate to the Committee's work; and
  - 1.6.2 undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

### 2 Matters reserved for the Human Resources Committee

- 2.1 With regard to appointments and dismissals of the Councils' **Statutory Officers**:
- 2.1.1 To make recommendations to the employing Council on the appointment and dismissal of the **Head of the Paid Service**; and the dismissal of the **Chief Finance Officer** and **Monitoring Officer**.
  - 2.1.2 To consider matters relating to the misconduct and capability of the **Head of the Paid Service**.

- 2.1.3 To appoint, when required, an **Investigation and Disciplinary Committee** referred to in the JNC Conditions of Service for Chief Executives and chief officers; with power to:
- (i) appoint an independent investigator and independent advisors, if required;
  - (b) determine whether or not the **Head of the Paid Service, Chief Finance Officer** and **Monitoring Officer** (the Statutory Officers) should be suspended pending investigation into allegations of misconduct or incapability; and
  - (c) make a recommendation to **Full Council** to dismiss a Statutory Officer  
Where the **Investigation and Disciplinary Committee** makes a recommendation to **Full Council** to dismiss a Statutory Officer the **Independent Persons Panel** must meet and consider the matter and prepare a report for Full Council before any decision to dismiss is considered by Full Council
  - (d) Appoint a Panel of three Councillors from the Committee, including at least one **Cabinet member**, assisted by one independent adviser, to act as an Appraisal Panel (as required by the JNC Conditions of Service for Chief Executives and Chief Officers) for the **Chief Executive**.
- 2.2 With regard to appointments and dismissals of **chief officers**:
- 2.2.1 To exercise functions for the appointment and dismissal of **chief officers** to/from the Council to include the appointment of a sub-committee for the purposes of appointments of chief officers (other than on an acting basis)
- 2.3 With regard to pensions matters, appeals and dismissals:
- 2.3.1 Agree payments in relation to termination of employment when required and any severance package exceeding £100,000;
- 2.3.2 To appoint Panels of three Councillors as appropriate to hear appeals against **chief officers** for dismissal or stage two of the Grievance Procedure whilst noting the role of the **Investigation and Disciplinary Committee** for the discipline of Statutory Officers; and
- 2.3.3 To appoint one Councillor to represent the Committee on any appeals against dismissal from Council's employment and appeals at stage two of the Grievance Procedure for officers below **chief officer** level.
- 2.4 To adopt new policy aims in respect of the following staffing matters:
- 2.4.1 Recruitment and resourcing;
  - 2.4.2 Pay, pensions and other terms and conditions of employment;

- 2.4.3 Employee relations;
  - 2.4.4 Learning;
  - 2.4.5 Health and absence management;
  - 2.4.6 Health and safety (in relation to Council staff and Council activities);
  - 2.4.7 Dignity at work/equal opportunities; and
  - 2.4.8 Conduct of employees.
- 2.5 Other staffing matters:
- 2.5.1 Consider and respond to consultation requests in respect of national pay negotiations and determine pay awards; recruitment and resourcing.

# Part Two, Section F

## Joint Arrangements

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### Committee Form and Structure

1. The **Full Council** may establish joint arrangements with other local authorities and/or their executives to exercise functions (which are **non-executive functions** in any of the participating authorities) or advise the Council. The **Leader** may establish joint arrangements for **executive functions**. Joint arrangements may include appointing **Joint Committees**.
2. Joint arrangements will normally take one of two forms: the appointment of a **Joint Committee** of two or more authorities, or the delegation of functions by one authority to another.
3. If the **Joint Committee** is to discharge **non-executive functions**, it must be appointed by **Full Council** and appointments must reflect the **political balance** on the Council as a whole. If it is to discharge **executive functions**, it must be appointed by the **Leader**. He or she can only appoint **Cabinet members** to the **Joint Committee** (except where the **Joint Committee** involves five or more authorities or has to be set up under specific legislation). If it is to discharge a mix of non-executive and executive functions, it must be appointed by Full Council with the agreement of the Leader. In that case, if only one member is appointed, he or she can be, but need not be, a Cabinet member, but if more than one member is appointed then those appointed must include at least one Cabinet member, and the political balance rules do not apply. There are special rules for joint area committees, where the membership may be determined by the location of wards instead of political balance.
4. The Council may delegate non-executive functions to another local authority or, in certain circumstances, the **Executive** of another local authority. The Leader may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
5. The decision whether or not to accept the delegation of non-executive functions from another local authority shall be reserved to a Full Council meeting.
6. The decision whether or not to accept the delegation of executive functions shall be taken by the Leader.
7. The Leader may contract-out **executive functions** to another body or organisation if this is allowed by an order under Section 70 of the Deregulation and Contracting Out Act 1994. Alternatively, the Leader or the Executive may enter into arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's decision-making.

# Part Two, Section G

## Officer Scheme of Delegation

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This part of the Constitution sets out the ways in which the officers of the Council can make decisions and which decisions they have the power to make. It is called the "**Officer Scheme of Delegation.**"

It is separated into four parts:

Section 1: Introduction

Section 2: General Delegations

Section 3: Delegations to Chief Executive and Statutory Officers

Section 4: Proper Officer and specified officer functions



## SECTION 1 – INTRODUCTION TO THE OFFICER SCHEME OF DELEGATION

1. “Officers” is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “officers” in this Constitution includes all the people who operate in this capacity including contractors, consultants and agency staff.
2. The Council operates a “cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
3. In order to ensure the smooth functioning of the Council and the efficient delivery of services, **Full Council** and the **Cabinet** have delegated to officers all of the powers that they need to perform their roles.
4. Certain officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles.
5. The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a **Chief Executive/Head of Paid Service** (as the most senior officer of the Council) supported by three other senior roles which are set out below and which together are referred to as the “**chief officers**”:
  - a. Chief Executive and Head of Paid Service
  - b. Executive Heads of Service
  - c. Chief Finance Officer (S151 Officer)
  - d. Chief Legal Officer (Monitoring Officer)
6. The **Head of Paid Service**, the **Chief Finance Officer (Section 151 Officer)** and the **Monitoring Officer** are also called “**Statutory Officers**” (because every Council is required by statute – the law – to have these posts).
7. It is possible (subject to any legal restrictions) for the roles of **the Chief Finance Officer** and/or the **Monitoring Officer** to be combined with another of the Chief Officer posts (or with other officer posts in the Council)
8. There are also a number of formal functions which the Council has to allocate to named officers called “Proper Officers”.
9. See the current organisational structure of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council's services.

## General Principles Relating to Officer Delegation

10. For the purposes of officer delegated powers, both within this part and any other part of the Constitution, the term “**Designated Officer**” shall include the following officers:
  - a. Chief Executive and Head of Paid Service
  - b. Executive Heads of Service
  - c. Chief Finance Officer (S151 Officer)
  - d. Chief Legal Officer (Monitoring Officer)
11. This scheme gives the power for the **Designated Officers** to take decisions in relation to all the functions in their areas of responsibility except where:
  - a. a matter is prohibited by law from being delegated to an officer,
  - b. a matter has been specifically reserved to members or excluded from delegation by this scheme, by a decision of the **Full Council**, the **Cabinet/Executive** or a Committee or Sub-Committee.
12. No officer may take **key decisions** unless specifically provided for within the constitution or specifically delegated by the **Leader**, the **Cabinet**, a committee of Cabinet or a **Cabinet member**.
13. The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers either:
  - a. through a [Departmental Scheme of Delegation](#) (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). There is a full list of the Departmental Schemes of Delegation available on the Council's website, or
  - b. through a Specific Delegation in relation to an individual decision which must be evidenced in writing (email is considered in writing). A Specific Delegation does not need to be given where an officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub-Committee.

## General limitations on exercise of powers

14. Any matters falling within the scope of the Scheme will be subject to any limitation, imposed by statute, by the Full Council or Cabinet and/or any duly authorised Committee. In addition, in exercising these powers each Designated Officer:

- a. Will comply with relevant Procedure Rules including Financial Regulations and Contract Procedure Rules. In the event of any inconsistency or conflict between Financial Regulations and Contract Procedure Rules and these delegations then the former shall prevail. In the event that the inconsistency or conflict cannot be resolved by the application of this rule then the matter shall be settled by the Chief Executive with advice, where necessary and appropriate, from the Chief Finance Officer (Section 151 Officer) and/or the Monitoring Officer;
  - b. Will not depart from any approved policies, scheme, or, any direction of the Full Council or Cabinet and/or appropriate Committee;
  - c. Will consult the appropriate professional or technical officer of the Council; and
  - d. Will take account of any Council Strategy and Budget and Policy Framework approved by Council in relation to the management functions for which they are authorised.
15. The exercise by officers of the powers delegated under this Constitution involving the incurring of any expenditure is subject to there being sufficient approved provision within the budget to cover that expenditure.
16. Any Designated Officer may, in any case, instead of exercising their powers under the Scheme, refer any matter to the Council, the Cabinet or Committee for decision.

## SECTION 2 – GENERAL DELEGATIONS TO DESIGNATED OFFICERS

### General

1. To exercise any functions, powers and duties of the Council to secure the effective management of their service areas including the authorisation of any procedures or contracts within the framework of **Financial Procedure Rules** and **Contract Standing Orders**, and taking and implementing decisions to maintain the operational effectiveness of their service areas where these fall within a policy decision made by the Council or Cabinet
2. To implement and develop initiatives within the strategic policy framework and other Council plans and policy documents
3. To carry out, or authorise the carrying out, of the functions of the **Proper Officer** of the Council in any legislation relating to those areas of responsibility assigned to Designated Officers
4. To exercise the general power of competence under the Localism Act 2011 subject to advice from Legal Services on each proposed exercise of these powers
5. The power to place the services of any Council officers at the disposal of any person acting as the Returning Officer for an electoral area situated wholly or partly in the Borough

### Incidental powers

6. In addition to any of their general and/or specific delegated functions and powers set out below, to enter into arrangements or do anything else which is calculated to facilitate, or is conducive or incidental to, the discharge of such delegated functions

### Service Performance

7. To make arrangements to secure value for money in respect of their service areas, to secure continuous improvement in the way functions are exercised having regard to a combination of economy, efficiency and effectiveness, and to maximise economic, environmental and social value.
8. To arrange consultation with tax payers, non-domestic rate-payers, service users and other local representatives about fulfilment of the best value duties and to involve representatives of local persons in the exercise of Council functions.
9. To meet business critical and key performance indicator targets.
10. To enter into any agreement with any other public body for the supply of goods and services subject to this being in accordance with the Council's Budget & Policy Framework, the Financial Regulations and the **Contract Standing Orders**
11. To make arrangements for co-ordinating the activities of the Council and those of any charity established for purposes similar or complementary to services provided by the

Council in the interests of persons who may benefit from those services or from the charity and to disclose to any such charity any information obtained in connection with the services provided by the Council

## Legal

12. To authorise, institute, prosecute, defend, compromise, or adjourn any form of legal proceedings or enforcement functions or statutory procedure and to make or defend any appeal in criminal or civil proceedings where such action is desirable to protect the Council's interests, subject to advice from Legal Services and the agreement of the **Monitoring Officer** as appropriate.
13. Subject to the agreement of the **Monitoring Officer**, to authorise officers to prosecute or defend or to appear on the Council's behalf in proceedings before any Court or Tribunal
14. To prepare, issue and serve any statutory notice, demand, certificate, order, or requisition for information in respect of functions in their area, including the authentication of such documents save that the authentication of documents necessary for any legal procedure or proceedings is reserved to the **Monitoring Officer**
15. To authorise officers to enter and/or inspect any land or premises in respect of which the Council has a statutory power or duty to enter or inspect including the obtaining and enforcement of a search warrant
16. To authorise any officer exercising a power to enter and/or seize items found on premises to exercise the powers of seizure, to give the required notice and to perform the duties to return certain items seized and to secure certain items seized
17. To apply, or to authorise other officers to apply, to a Court for a warrant to enter any land or premises, in exercise of his/her responsibilities
18. To authorise the institution of any process or proceedings for administering or enforcing the functions of the Council
19. To certify that any document forms part of the records of the Council for the purpose of admitting that document as evidence in civil proceedings
20. To authorise the recovery by legal proceedings of any sum to which the Council is entitled
21. To take the action necessary to comply with any Court Order made against the Council
22. To appoint officers as authorised officers for any statutory purpose.
23. To accept, hold and administer any property on trust (in consultation with the **Monitoring Officer** and **Chief Finance Officer (Section 151 Officer)**)

24. To supply photocopies of documents to the general public subject to making such charges as may be agreed in an approved scheme, subject to the provisions of the Copyright, Designs and Patents Act 1988

**Personnel Matters:**

25. Exercising all Human Resources functions in accordance with agreed procedures and policies and subject to the agreement of the Chief HR Officer as required, including:
  - a. Taking all decisions relating to changes to the establishment; save in relation to the Executive Leadership Team which is delegated to the Chief Executive. All such changes are to be contained within existing budgets and in accordance with agreed procedures and legislative requirements
  - b. Power to designate posts as casual or essential car users in accordance with agreed procedures
26. Power to defray expenses properly incurred by an officer of the Council
27. Extension of sickness pay (half and full pay) or extension beyond the national, provincial or local agreements
28. Approval of extension of special leave with pay
29. Extensions of accident pay beyond the national, provincial or local agreements
  - a. Grant of honoraria and where relevant ex-gratia payments to employees
  - b. Approval to changes to grades on various scales/conditions for all employee groups subject to the agreement of the Chief HR Officer Head and save in relation to **chief officers** which is reserved to the Human Resources Committee
30. Re-designation of posts subject to normal consultative procedures
31. Decisions not to reclaim financial assistance granted under the Post-Entry Training Scheme
32. To consider requests from employees to engage in any other regular employment for which payment is received
33. Decisions not to reclaim maternity pay
34. Deletion of vacant and creation of new posts
35. Appointments to posts in accordance with agreed procedures and pay scales, save in relation to **chief officers** which is reserved to the Human Resources Committee

36. Power to authorise recruitment and retention terms for individual posts save in relation to **chief officers** which is reserved to the Human Resources Committee
37. Disciplinary/capability action, save in relation to the **Executive Leadership Team** which is delegated to the Chief Executive, in accordance with agreed procedures. The Chief Executive shall act in accordance with the Officer Employment Procedure Rules.
38. Dismissals of officers, save in relation to **chief officers** which is reserved to the Human Resources Committee. The power to approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme is delegated to the **Chief Finance Officer**, save in relation to **chief officers** which is reserved to the Human Resources Committee.
39. Approval of settlements for individual post holders, at termination of employment or in legal proceedings including those reached by settlement agreement, subject to the approval of the Chief HR Officer and save in relation to **chief officers** which is reserved to the Human Resources Committee.
40. Exercising of discretions in accordance with Council policy pursuant to the Local Government Pension Scheme Regulations 2013
41. Approval of payment of allowances to employees
42. Approval of more than 5 days carry-over of annual leave to the following leave year

### **Administrative Matters**

43. Power to deal with requests for access to Council premises by the media
44. Power to waive charges where justified in exceptional circumstances and where this is legally permissible

### **Finance**

45. Officers are referred to the Financial Regulations at Part Three of the Constitution

### **Contracts**

46. Officers are referred to the **Contract Procedure Rules** at Part Three of the Constitution

### **Property Matters**

47. Any decision concerning the management or use of land held for the operational requirements of the officers of a service area, subject to the following provisions
48. Powers to take any action or sign any document under the Land Registration Rules, including the release of mortgages or charges; and powers to give any undertaking are reserved to the **Monitoring Officer**

49. Subject to the agreement of the Executive Head of Commercial, the power to acquire or dispose of any land or property with a capital value below £1000,000 except by use of compulsory powers or in advance of identified requirements. The power to acquire or dispose of any land or property with a capital value equalling or exceeding £100,000 but less than £250,000 except by use of compulsory powers or in advance of identified requirements is reserved to the Executive Head of Regeneration and Enforcement.
50. Subject to the agreement of the Executive Head of Commercial the power to take or grant a lease or licence of any land or property for any period where the rent is less than £100,000 per annum. The power to take a lease or licence of any land or property for any period where the rent equals or exceeds £100,000 per annum but is less than £250,000 is reserved to the Executive Head of Regeneration and Enforcement.
51. Subject to the agreement of the Executive Head of Commercial, the power to settle compensation for the loss of interests in land up to a maximum of £100,000 per interest where in the approved capital programme.
52. The power to survey land which the Council proposes to acquire compulsorily
53. The power to serve on any person occupying, having an interest in, or managing any land a notice requiring them to furnish the Council with information regarding the nature of their interest in the land and the name and address of others occupying, managing or having an interest in the land

#### **Emergencies (e.g. flooding, power failure etc.)**

54. Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, all Designated Officers may:
  - a. incur such expenditure as is considered necessary in taking action (either by the Council itself or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in the Borough or among its inhabitants the effects or potential effects of the event; and
  - b. make grants or loans to other persons or bodies in respect of any such action taken by those persons or bodies, subject to ratification where necessary, as soon as possible.
55. The preparation of Civil Emergency Plans for the Council, in consultation all necessary outside bodies and organisations.

#### **Equalities and Public Health**

56. To have due regard, when carrying out any of the Council's functions, to the Council's Equal Opportunities Policy and the need to eliminate discrimination, harassment and victimisation and to promote equality of opportunity and foster good relations



57. Duty to make provision for disabled persons with needs who are members of the public or Council employees in Council premises including means of access, parking facilities, sanitary conveniences and appropriate signage

### **Energy and Climate Change**

58. When carrying out any of the Council's functions:
- a) To promote the Council's policies relating to climate change from time to time in force
  - b) To have regard to the most recent energy measures report from central government
  - c) To have regard to the HBC Strategy for the Environment, Climate Change and Energy.

### **Health and Safety**

59. To ensure and promote the health, safety and welfare at work of all employees and visitors to premises under their control

### **Access to Information**

60. To comply with the duties and powers imposed by the Access to Information Standing Orders

### **Responding to consultations and proposals**

61. To respond to consultations and to make comments and representations on matters notified to the Council by third parties including (but not limited to) Government Departments, statutory undertakers and local authorities, in consultation with the relevant **Cabinet member**

### **Submission of grant funding bids**

62. To submit bids for grant funding and/or other financial assistance to Government departments and other organisations and bodies for projects and initiatives consistent with Council policies, following consultation with the relevant **Cabinet member**, and to enter into any such agreements and arrangements as necessary to secure such funding, in accordance with the **Contract Procedure Rules**.

### **Complaints**

63. To take action regarding complaints received
64. To settle any Ombudsman / Complaint Cases:
- a. cases of alleged maladministration where there has not been a finding of maladministration by the Ombudsman

- b. complaints that have been brought against the Council under any of its internal complaints procedures in conjunction with the Monitoring Officer
- c. To approve compensation payments to remedy complaints in accordance with the Corporate Complaints Procedure and Financial Regulations

#### **Attestation of the Common Seal of the Council**

- 65. 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.
- 66. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or where required by the Contract Procedure Rules.
- 67. The affixing of the Seal on documents shall be attested by any one of the following officers:
  - a. Chief Executive;
  - b. Monitoring Officer;
  - c. Chief Finance Officer;
  - d. Solicitor for the Council;
  - e. or any officer authorised by them either in relation to a specific document or particular categories of documents.

## SECTION 3 – DELEGATIONS TO THE CHIEF EXECUTIVE AND STATUTORY OFFICERS

The Council is required to designate a number of officers to discharge statutory functions. The legal provisions and the officer designated by the Council to discharge each function are listed in the table below. Further detail about the responsibilities of the **Chief Executive** and each **statutory officer** then follows.

A table of designated **Proper Officers** is set out below:

<b>Legislative Provision</b>	<b>Statutory power the Council must delegate to an officer</b>	<b>Officer designated as the statutory officer</b>
S4 Local Government and Housing Act 1989	Designate one of their officers as the Head of Paid Service	Chief Executive
S151 Local Government Act 1972	Appoint an officer responsible for the administration of the authority's financial affairs	Chief Finance Director
S5 Local Government and Housing Act 1989	Designate one of their officers as the Monitoring Officer	Chief Legal Officer
S36 Freedom of Information Act 2000	Qualified person in relation to s36 of the Act	Chief Legal Officer

### Functions delegated to the Head of Paid Service (Chief Executive)

1. To act as the Council's statutory Head of Paid Service pursuant to section 4 Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Head of Paid Service under the Council's Constitution generally.
2. Where he or she considers it appropriate to do so, to prepare a report to the authority setting out their proposals as to:
  - a. the manner in which the discharge by the authority of their different functions is co-ordinated;
  - b. the number and grades of staff required by the authority for the discharge of their functions;
  - c. the organisation of the authority's staff;
  - d. the appointment and proper management of the authority's staff.
3. To be responsible for and take action in relation to corporate strategy, policy initiatives and integrated planning and service delivery.
4. The corporate management of the Council and, specifically:

- a. Advice to the Council on the Policy Framework
  - b. Preparation of, and consultation on, the draft of the Forward Plan on a monthly basis
  - c. The responsibility for the discharge of the Council's functions in implementation of statutory and non-statutory plans including the modernisation, collation, indexation and publication of policies and practices of the Council within the evolving Policy Framework as the **Full Council** and the **Executive** shall determine.
5. As required to exercise any function delegated to any other officer of the Council, with the exception of those functions delegated exclusively to the Council's **Chief Finance Officer (s151 Officer)** or the **Monitoring Officer**. Further, in the event of any dispute or doubt as to the delegated powers of any other Director, the Chief Executive shall have the authority to determine which **Designated Officer** is to exercise that power.
  6. To provide the 'certificate of opinion' for an employee making application to the **Standards Committee** for exemption of his/her post from political restriction under section 3 of the Local Government and Housing Act 1989 (opinion as to whether the duties of the post involve regularly giving advice to members or speaking to journalists/broadcasters).
  7. The authority to institute, defend or settle any legal proceedings or arbitration where urgent action is needed to protect the interests of the Council.
  8. The power to determine that an emergency has occurred, namely, an event or situation which threatens serious damage to human welfare or to the environment in the District or war or terrorism which threatens serious damage to the security of the United Kingdom.
  9. The power to incur expenditure and take any necessary action within local authority statutory functions, including jointly with other authorities, in the event of an emergency.
  10. To nominate other senior officers of the Council, whether orally or in writing, to take administrative decisions in the event of an emergency.
  11. In the event that the Chief Executive is absent or unable to act for any reason, the powers in above may be exercised by any other **chief officer** who is available to act.
  12. In the event that all members of the **Cabinet** are removed from office, to exercise all Cabinet functions in consultation with the Mayor of the Council until a new Cabinet has been appointed.
  13. To discharge the functions of Electoral Registration Officer, electoral Returning Officer in local elections and Acting Returning Officer in parliamentary elections.
  14. The review of electoral arrangements and District boundaries.

15. Taking all decisions relating to changes to the establishment for all staff including the **Executive Leadership Team**, such changes to be contained within existing budgets and in accordance with agreed procedures and legislative requirements.
16. To make all necessary amendments to the Council's human resources policies to ensure their accuracy, legal and best practice compliance in consultation with the Chief HR Officer, Human Resources Committee, Leader of the Council and relevant Portfolio Holder.
17. To take disciplinary action, not including dismissal, against any members of the **Executive Leadership Team** . In the case of the **Monitoring Officer** and **Chief Finance Officer** to act in accordance with Officer Employment Procedure Rules in Part 3 of the Constitution and agreed procedures.

### **Functions delegated to the S151 Chief Finance Officer**

18. To act as the Council's statutory Chief Finance Officer pursuant to section 114A Local Government Finance Act 1988 and carry out the responsibilities assigned to the Chief Finance Officer under the Council's **Financial Procedure Rules** and under the Constitution generally, including carrying out all **Treasury Management** activities.
19. To make arrangements for the proper administration of the Council's financial affairs in accordance with section 151 Local Government Act 1972.
20. To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
21. Maintaining strong financial management underpinned by effective financial controls by:
  - a. Advising on effective systems of internal management and financial control;
  - b. Ensuring that financial management arrangements are sound and effective;
  - c. Ensuring a prudential financial framework is in place;
  - d. Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well documented internal financial controls;
  - e. Securing effective arrangements for prudential borrowing, treasury management, pensions and trust funds;
  - f. Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny;
  - g. Advising on anti-fraud and anti-corruption strategies and measures;
  - h. Securing effective systems of financial administration; and

- i. Ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared.
22. To approve the detailed format of the financial plan and the revenue budget prior to approval by the **Full Council**.
23. To approve the annual calculation of the Council's Council Tax requirement in accordance with section 31A Local Government Finance Act 1992.
24. To report annually to Council on the robustness of the budget and adequacy of reserves as required by section 25 Local Government Act 2003.
25. To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to Council officers and members.
26. To report to members, in consultation with the Monitoring Officer, if there is or there is likely to be unlawful expenditure or an unbalanced budget as required by sections 111-116 Local Government Finance Act 1988.
27. To establish and maintain the general fund and collection fund of the authority in accordance with the provisions of the Local Government Act 1988.
28. To manage the capital programme flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources.
29. To approve the draft Council's Accounts and Accounting Policies by 30 June each year in accordance with the Accounts and Audit (England) Regulations 2015
30. To approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme, in accordance with agreed procedures, save in relation to **chief officers** which is reserved to the Joint Human Resources Committee.
31. To write off uncollectible debts relating to the management of tenanted properties, up to the level equivalent to four months' rent. All debts written off this way would be reported to **Cabinet** for information through the quarterly reporting procedures.
32. To provide financial information to the media, members of the public and the community

#### **Functions delegated to the Monitoring Officer (Chief Legal Officer)**

33. To act as the Council's statutory **Monitoring Officer** pursuant to section 5 and 5A Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Monitoring Officer under the Council's Constitution generally.
34. To ensure that the Council, its officers and its elected Councillors maintain the highest standards of conduct.

35. To contribute to the corporate management of the Council, in particular through the provision of professional legal advice.
36. To establish and maintain the **Code of Conduct for Councillors**, dealing with the conduct that is expected of Councillors and co-opted members of the authority when they are acting in that capacity.
37. establish and maintain a register of interests of Councillors and co-opted members of the authority in accordance with the provisions of the Localism Act 2011.
38. To contribute to the promotion and maintenance of high standards of conduct through provision of support to the **Standards Committee**.
39. To receive and act on reports made by the **Standards Committee**.
40. To consider complaints against members referred to him including conducting investigations into matters as appropriate and the making of reports or recommendations in respect of them to the **Standards Committee**.
41. To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to Council officers and members.
42. To report to Councillors on any actual or potential breaches of the law or maladministration as required by section 5 Local Government Housing Act 1989.
43. To advise whether decisions of the **Cabinet** are in accordance with the **Budget and Policy Framework**.
44. To be responsible for the maintenance and operation of the Council's Constitution. The Monitoring Officer has authority to make minor amendments and corrections to the Constitution to ensure that:
  - a. legislative references are updated;
  - b. it reflects the Council's structures and decision-making requirements;
  - c. consequential amendments are made as a result of Council and Cabinet decisions;
  - d. it is clear and unambiguous and maintains efficiency of operations; and
  - e. any other required changes are made as appropriate.

The Monitoring Officer shall report changes pursuant to this part to the next available meeting of the **Full Council**.

45. To advise and assist the Democratic and Elections Services Manager with the proper performance of the Access to Information Standing Orders.

46. To fulfil the requirements of the 'qualified person' in relation to section 36 of the Freedom of Information Act 2000.
47. To approve applications to use the Council's Crest, Coat of Arms or Badge within the approved guidelines.
48. For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:
  - a. The right of access to all documents and information held by or on behalf of the Council, including documents and information held by any officer or member of the Council. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political group represented on the Council;
  - b. The right of access to any meetings of officers or members (or both) of the Council, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
  - c. The right to require any officer or member of the Council, or any contractor of the Council, to provide an explanation of any matter under investigation;
  - d. The right to require the assistance of any officer of the Council in carrying out an investigation and to delegate to that officer any of the powers of the post of Monitoring Officer;
  - e. A power to mediate a local resolution to any complaint of breach of the Council's Councillors' Code of Conduct, in accordance with the Council's relevant procedures;
  - f. The right of access to the Head of the Paid Service (the Chief Executive), relevant Executive Heads of Service and the Chief Finance Officer;
  - g. The right, after consultation with the Head of the Paid Service (the Chief Executive) and/or the Chief Finance Officer where appropriate to notify the Police, the Council's auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions; and
  - h. The right to obtain legal advice at the Council's expense, either internally or from an independent external solicitor or barrister, on any matter which they believes necessitates the same, and sufficient financial resource to enable them to do so.



## SECTION 4 – PROPER OFFICER AND SPECIFIED OFFICER FUNCTIONS

1. Many legislative provisions require the appointment of a "**Proper Officer**" to undertake formal responsibilities on behalf of the Council.
2. The **Chief Executive** shall be the **Proper Officer** of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:
  - a. such designation is given by the Council to any other officer or
  - b. Chief Executive/Head of Paid Service, exercising the powers given to him/her by this Constitution, appoints another officer of the Council to be the **Proper Officer** for a specific service area or function.

A table of designated **Proper Officers** is set out below:

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Reference in legislation to the "Clerk"	<b>Any legislation before October 1972</b>	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Appointment as Parish Trustee with Chair of Parish as body corporate for a Parish Meeting; The officer responsible for convening newly created Parish Councils	<b>Local Government Act 1972</b> Section 13(3)	Monitoring Officer	Democratic and Election Services Manager
Witness and receipt of declaration of acceptance of office	<b>Local Government Act 1972</b> Section 83	Chief Executive	Monitoring Officer
Receipt of notice of resignation by Councillor	<b>Local Government Act 1972</b> Section 84	Chief Executive	Monitoring Officer
Declare any vacancy in office	<b>Local Government Act 1972</b> Section 86	Chief Executive	Monitoring Officer
Convening a meeting of Council to fill casual vacancy in office of Chair	<b>Local Government Act 1972</b> Section 88(2)	Chief Executive	Monitoring Officer
Receipt of notice of casual vacancy from two local government electors (Also for Parish and Community Councils)	<b>Local Government Act 1972</b> Section 89(1)(b) <b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305</b>	Chief Executive	Monitoring Officer

Signature of summons to council meetings	<b>Local Government Act 1972</b> Section 99 & Schedule 12 Para.4(1A)(b)	Chief Executive	Monitoring Officer
Exclusion of reports, etc. from inspection	<b>Local Government Act 1972</b> Section 100B Schedule 12A	Monitoring Officer	Deputy Monitoring Officer
Written Summary where minutes would disclose exempt information	<b>Local Government Act 1972</b> Section 100C	Monitoring Officer	Deputy Monitoring Officer
Compilation of list of background papers	<b>Local Government Act 1972</b> Section 100D	Monitoring Officer	Deputy Monitoring Officer
Exclusion from production to Councillors of documents disclosing exempt information	<b>Local Government Act 1972</b> Section 100F	Monitoring Officer	Deputy Monitoring Officer
Receipt of money due from officers	<b>Local Government Act 1972</b> Section 115(2)	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Declarations and certificates with regard to securities	<b>Local Government Act 1972</b> Section 146(1)(a)	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
The officer having responsibility for the proper administration of the financial affairs of the Council.	<b>Local Government Act 1972</b> Section 151 Also <b>Local Government Finance Act 1988</b> Sections 112-116 and any reference in legislation before October 1972 to the "Treasurer" of a local authority	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Functions with respect to ordnance survey	<b>Local Government Act 1972</b> Section 191	Executive Head of Place	
Charity functions	<b>Local Government Act 1972</b> Section 210	Chief Executive Officer	Chief Finance Officer (Section 151 Officer)
Authorise officers to appear in legal proceedings	<b>Local Government Act 1972</b> Section 223 (Also Section 60 County Courts Act 1984)	Monitoring Officer	Deputy Monitoring Officer
Deposit of documents pursuant to the Standing Orders of either Houses of Parliament or to any enactments/instruments and any action as may be directed	<b>Local Government Act 1972</b> Section 225(1)	Monitoring Officer	Deputy Monitoring Officer

Certification of photographic copies of documents	<b>Local Government Act 1972</b> Section 229(5)	Monitoring Officer	Deputy Monitoring Officer
Authentication of documents	<b>Local Government Act 1972</b> Section 234(1)	Monitoring Officer	Deputy Monitoring Officer
Sending confirmed byelaws to the <b>Proper Officer</b> of every Parish and Community Council to which they apply	<b>Local Government Act 1972</b> Section 236	Monitoring Officer	Deputy Monitoring Officer
Certification of byelaws	<b>Local Government Act 1972</b> Section 238	Monitoring Officer	Deputy Monitoring Officer
Keeping of roll of Freemen	<b>Local Government Act 1972</b> Section 248	Chief Executive	Monitoring Officer
Officer to whom Councillors shall give notice of address desiring Council summonses to be sent where not place of residence	<b>Local Government Act 1972</b> Schedule 12 Para.4(3)	Chief Executive	Monitoring Officer
Certification of resolutions under paragraph 25 applying or dis-applying provisions under the Public Health Acts 1875 onwards	<b>Local Government Act 1972</b> Schedule 14 Para.25(7)	Chief Executive	Executive Head for Place
Authentication of documents and issue of notices	Various including: (a) Statutory notices under the <b>Public Health Acts 1936 and 1961, the Control of Pollution Act 1974, the Housing Acts 1957 and 1988 and the Local Government Act 1989</b> (other than for Council Houses), the <b>Local Government Miscellaneous Provisions) Act 1976</b> (except as specified in the next paragraph), the <b>Prevention of Damage by Pests Act 1948, the Food Safety Act 1990 and the Environmental Protection Act 1990</b> (as it relates to statutory nuisances)	Executive Head for Place	

	<p>(b) Notices under the Building Regulations and the <b>Building Act 1984</b> and under the <b>Local Government (Miscellaneous Provisions) Act 1976</b> with regard to dangerous trees and excavations</p> <p>(c) any other matter</p>		
Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	<b>Town and Country Planning Act 1971</b> Sections 54 & 58	Executive Head for Place	
Officer having responsibility for the storage and charge of cemetery records	<b>Local Authorities' Cemeteries Order 1977</b> Article 12	Executive Head for Commercial	
Officer having responsibility for the signature of grants under Paragraph 1 of Part II of Schedule 2 of that Order and the granting of permission for the various matters referred to in Paragraph 1 of Part I of that Schedule	<b>Local Authorities' Cemeteries Order 1977</b> Paragraph 1 of Parts I & II of Schedule 2	Executive Head for Commercial	
The Registration Officer for any constituency of part of a <b>constituency coterminous</b> or situated in the District.	<b>Representation of the People Act 1983</b> Section 8 and 52	Chief Executive	Monitoring Officer
The Returning Officer for elections of Councillors of the District and for elections of Councillors of Parishes within the District and to receive declarations of Election expenses	<b>Local Government Act 1972</b> Section 35(1)  <b>Local Government Act 1972</b> Section 82	Chief Executive	Monitoring Officer
Receipt from Returning Officer of: the names of persons elected to the Council; and election documents.	<b>Local Elections (Principal Areas) (England and Wales) Rules 2006/3304</b>	Chief Executive	Monitoring Officer

Retention of election documents and making them available for public inspection.			
Publication of Ombudsman reports.	<b>Local Government Act 1974</b> Part 3 - Section 30	Chief Executive	Monitoring Officer
(a) Various purposes with regard to drainage, water supply, sanitary accommodation. (b) Purposes relating to building control other than those comprised in (a) above (c) authorise action in relation to dangerous structures under Section 78	<b>Building Act 1984</b>	Executive Head for Place	
To determine applications for exemption from the list of Politically Restricted Posts  Maintain a list of Politically Restricted Posts	<b>Local Government and Housing Act 1989</b> Section 3A  Section 2	Executive Head of Internal Services	Chief HR Officer
Receipt of Notice re changes to Political Groups Receipt of Notice of Cessation of Membership of Political Groups To accept wishes of Political Groups in respect of proportionality To notify Political Groups of allocations	<b>Local Government and Housing Act 1989</b> Sections 15,16 & 17 <b>Local Government Political Groups) Regulations 1990</b> Paras 9, 10, 13 & 14	Chief Executive	Monitoring Officer
Discharging the functions for dealing with stray dogs	<b>Environmental Protection Act 1990</b> Sections 149 - 151	Executive Head for Place	
Service of notices requiring details of any interests in land.	<b>Local Government (Miscellaneous Provisions) Act 1976</b> Sections 16	Executive Head for Commercial	Head of Property and Asset Management
Certification of copies of resolutions, minutes and other documents	<b>Local Government (Miscellaneous Provisions) Act 1976</b> Section 41	Monitoring Officer	Deputy Monitoring Officer
Duty of local authority to supply forms to doctors for	<b>Public Health Act 1936</b> Sections 11, 48, 58 & 60	Executive Head for Place	

purposes of Section 48 - Removal of dead body to mortuary for burial. Section 58 - authentication of documents Section 60 - Service of notices and other documents	<b>Public Health (Control of Disease) Act 1984</b>		
The local registrar within the meaning of the Land Registration Act 2002 and Local Land Charges Act 1975 who shall register any Matters specified by these Acts affecting land situate within the District.	<b>Land Registration Act 2002 and Local Land Charges Act 1975</b>	Executive Head for Commercial	Head of Customer Services
Entertainments, licensing control of sex shops and public health	<b>Local Government (Miscellaneous Provisions) Act 1982</b>	Executive Head for Place	
Licensing and gambling functions	<b>Licensing Act 2003 Gambling Act 2005</b>	Executive Head for Place	
Non-disclosure where potential to prejudice the effective conduct of public Affairs	<b>Freedom of Information Act 2000</b> Section 36	Monitoring Officer	Deputy Monitoring Officer
<b>Proper Officer</b> Functions for petitions and referenda	<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914</b>	Chief Executive	Monitoring Officer
29 – Establish and maintain a register of Councillors' and co-opted Councillors' interests 30 – 31 – Receipt of Councillors and co-opted Councillors' declarations of interests and changes to those interests within twenty-eight days 32 – Sensitive Interests 33 – Dispensations from restrictions under Section 31(4)	<b>Localism Act 2011</b> Sections 29 - 33	Monitoring Officer	Deputy Monitoring Officer
<b>Proper Officer</b> functions in relation to referenda	<b>Local Authorities (Conduct of Referendums) (England) Regulations 2012</b>	Chief Executive	Monitoring Officer

<b>Proper Officer</b> functions anti-social behaviour and community protection	<b>Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014</b>	Executive Head for Regeneration and Enforcement	
<b>Proper Officer</b> for notification to deal with objections by Cabinet to appointments or dismissals of Chief Officers	<b>Local Authorities (Standing Orders) (England) Regulations 2001/3384</b>	Chief Executive	Monitoring Officer
Data Protection Officer (under the GDPR (UK GDPR from 1 January 2021))	<b>Data Protection Act 2018; General Data Protection Regulation</b>	Executive Head of Internal Resources	Data Protection Officer
Making a report to Council where a <b>key decision</b> has been made without a Key Decision Notice nor in compliance with the Cabinet Procedure Rules.	<b>Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089</b>	Monitoring Officer	Deputy Monitoring Officer
Any other provisions for which arrangements are not made above or in the Scheme of Delegation to Officers (whether made before or after this list was last updated) requiring a <b>Proper Officer</b> or authorised Officer from time to time – either to nominate a <b>Proper Officer</b> or exercise the functions.	<b>Any</b>	Chief Executive	Chief Finance Officer (Section 151 Officer)

# Part Three

## Rules of Procedure

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**Section A: Council and Committee Standing Orders**

**Section B: Access to Information Standing Orders**

**Section C: Budget and Policy Framework Standing Orders**

**Section D: Cabinet (Executive) Standing Orders**

**Section E: Overview & Scrutiny Standing Orders**

**Section F: Officer Employment Standing Orders**

**Section G: Financial Procedure Rules**

**Section H: Contract Standing Orders**



**Part Three**  
**Council Meeting Procedure Rules**  
**Section A**  
**Council Standing Orders**

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# Council Standing Orders

## Part 1

### 1. Annual Council

#### 1.1 Time and place

(a) The Council shall in every year hold an annual meeting

(b) The Annual Meeting of the Full Council shall be held:

- (i) in the year of ordinary elections of councillors to the Council, on the second Wednesday in May unless or such other day within 21 days following the day of retirement as the Council may fix.
- (ii) in any other year, on such day in the month of May as the Council may fix.

#### 1.2 Business to be transacted

Business in detail at the first part of the Annual Meeting of the **Full Council** will consist of:

- (a) elect a person to preside if the Mayor of the Council is not present;
- (b) special business introduced by the outgoing Mayor of the Council;
- (c) the election of the in-coming Mayor of the Council and of the Deputy Mayor of the Council; and
- (d) to deal with administration matters concerned with the Mayor of the Council's charity/charities.
- (e) To deal with any matters concerned with the Honourable Havant Citizen Award

- 1.3** The business in detail at the second part of the Annual Meeting of the **Full Council** will be:
- (a) elect a person to preside if both the Mayor of the Council and Deputy Mayor of the Council are absent;
  - (b) approval of the minutes of the last meeting as a correct record;
  - (c) receive any declarations of interests from Councillors in any matter being considered by the meeting;
  - (d) receive any announcement from the Mayor of the Council and Chief Executive;
  - (e) consider any business not otherwise specified in the council summons which, in the opinion of the Chair of the Council, in consultation with the Chief Executive, is business of such urgency as to require immediate attention by the council;
  - (f) election of the Leader of the Council;
  - (g) receive nominations and appoint Councillors to serve on all relevant committees and to appoint all Chair and Vice-Chair as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are **executive functions** as set out in this Constitution;
  - (h) appointment of representatives to outside bodies;
  - (i) reports of any Committee, including matters referred to Council by any Committee;
  - (j) annual reports of any Committee;
  - (k) minutes of other committees;
  - (l) approval of the delegation of the Council's **non-executive functions** in the **Officer Scheme of Delegation** set out in **Part 2** of this Constitution; and
  - (m) any other business specified in the summons to the meeting.

## 2. Ordinary Council Meetings

### 2.1 Time and Place

- (a) Dates and times of ordinary meetings of the **Full Council**, will be agreed annually by the Full Council.
- (b) All meetings of the Council shall be held in the Hurstwood Room at Havant Borough Council, Public Service Plaza, Havant, PO9 2AX on a Wednesday commencing at 5.30pm unless otherwise notified by the Proper Officer in the summons to the meeting

### 2.2 Business to be transacted at ordinary meetings

The business at all Ordinary meetings of **Full Council** will be conducted as follows:

- (a) if the Mayor of the Council and Deputy Mayor of the Council are absent, to appoint a person to chair the meeting;
- (b) any business required by statute to come before anything else;
- (c) disclosure of interests by Councillors in any matter being considered by the meeting;
- (d) approval of the minutes of the last meeting as a correct record;  
  
(The Mayor of the Council will put that the minutes be approved and, if so approved, will sign them as a correct record. There will be no discussion on the minutes except as to their accuracy);
- (e) to receive questions from, and provide answers to the public, provided notice of the question is given in writing or electronically to the Democratic Services Manager, not less than four clear working days before the meeting, excluding the day of the meeting;
- (f) any business remaining from previous **Full Council** meetings;
- (g) report of the **Cabinet** and any questions under CSO 14;
- (h) report of any Committee, including matters referred to **Full Council** by any Committee;
- (i) any questions under CSO 14 and 15;

- (j) notices of Motion submitted under CSO 18 (to be dealt with in their order of receipt by the **Chief Executive**); and
- (k) any other business specified in the summons to the meeting.

### **3. Budget Meeting**

#### **3.1 Time and Place**

- (a) \*\*\*A meeting of the Full Council will take place each year in order to calculate the budget requirement and set the council tax. This is known as the **Budget Council meeting**. This is usually in February.
- (b) (b) Unless the Chief Executive otherwise directs the meetings shall be held in the Hurstwood Room at Havant Borough Council, Public Service Plaza, Havant, PO9 2AX

#### **3.2 Business to be transacted at Budget meetings**

The Budget Meeting shall transact such business as:

- (a) in the opinion of the Chief Finance Officer, is necessary to enable the Council to comply with its legal obligations in terms of setting a budget and other legal matters associated with the determination of the Council Tax, etc;
- (b) is necessary to approve, review, refresh or otherwise consider in the opinion of the Chief Executive, the Medium Term Financial Strategy; and
- (c) any other business which the Chief Executive, Chief Finance Officer or Monitoring Officer consider should be placed before Members

### **4. Extraordinary Council**

#### **4.1 Calling Extraordinary meetings**

\*\*\*Those listed below may request the Chief Executive to call extraordinary meetings of the Full Council:

- (a) the Full Council by resolution;
- (b) the Mayor of the Council;
- (c) the Monitoring Officer; or

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- (d) any five members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she refused to call a meeting or has failed to do so within seven days of the presentation of a requisition.

#### **4.2 Time and Place**

- (a) Extraordinary meetings shall be held on such days as may be determined by the Chief Executive in consultation with the Mayor and political group leaders.
- (b) Unless the Chief Executive otherwise directs the meetings shall be held in the Hurstwood Room at Havant Borough Council, Public Service Plaza, Havant, PO9 2AX

#### **4.3 Business to be transacted at Extraordinary meetings**

The Chief Executive shall, in calling an Extraordinary Meeting of the Council, restrict the business on the summons to that required by law, any matter or matters that the Chief Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called.

### **5. Notice of and Summons to Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five Clear Working Days before a meeting, the Chief Executive will send a summons signed by him or her stating the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **6. Alteration or Cancellation of Meetings**

The **Chief Executive** may cancel or postpone any meeting, in consultation with the Chair (or the Mayor of the Council in the case of **Full Council** meetings), prior to the issue of the agenda or subsequently if there is no business to be transacted.

### **7. Withdrawal of Items from Agenda**

The **Chief Executive** may, in consultation with the **Monitoring Officer** and the committee Chair (or the Mayor of the Council in the case of **Full Council** meetings) withdraw an item from the agenda.

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## 8. Mayor of the Council and Deputy Mayor of the Council

- 8.1 \*\*\*The Mayor of the Council and the Deputy Mayor of the Council will be appointed at the Annual Meeting of **Full Council**.
- 8.2 \*\*\*If the Office of Mayor of the Council becomes vacant during a Civic Year it will be filled at the next Full Council meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.
- 8.3 If the office of Deputy Mayor of the Council becomes vacant during a civic year it will be filled at the next Full Council meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.
- 8.4 The Mayor of the Council will chair meetings of the **Full Council**. In the Mayor of the Council's absence the Deputy Mayor of the Council will chair the meeting. In the absence of both the Mayor of the Council and Deputy Mayor of the Council, the Full Council will appoint another Councillor to chair the meeting.

## 9. Chairing the meetings

- 9.1 The Mayor, if present, will chair the meeting.
- 9.2 If the Mayor is absent, the Deputy Mayor will take the chair.
- 9.3 If both the Mayor and Deputy Mayor are absent, the Councillors present will elect a Councillor to take the Chair for the meeting. The person presiding at the meeting may exercise any power of duty of the Mayor.
- 9.4 Where these CSO apply to committee and sub-committee meetings, references to the Mayor also include the Chair of committees and sub-committees.

## 10. Quorum

- 10.1 The minimum number of voting Councillors necessary for business to be dealt with at each meeting is as follows:

Full Council	10
Planning Committee	3
Planning Policy Committee	3
Licensing Committee	4
Audit and Finance Committee	3
Overview & Scrutiny Committee	5
Standards Committee	3

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Human Resources Committee	3
Sub-Committees	3
All other committees	3

- 10.2 There must be a **quorum** within 15 minutes of the scheduled start time of a meeting, otherwise it cannot take place. The Mayor shall declare that no meeting shall take place and shall direct that the meeting of the Council shall take place at such date and time as the Mayor may fix. If the Mayor does not fix a date and time, the business shall be considered at the next ordinary meeting.
- 10.3 If, during the course of a meeting, the number of Councillors present falls below the quorum the meeting cannot continue. The Mayor shall adjourn the meeting and shall direct that the remaining business shall take place at such date and time as the Mayor may fix. If the Mayor does not fix a date and time, the business shall be considered at the next ordinary meeting.

## 11. Duration of Council Meetings

Any meeting of the **Full Council** or committee or sub-committee which has sat continuously for three hours will be adjourned unless the majority of Councillors present by vote, decide to continue to sit for a further period not exceeding one hour.

## 12. Declarations of Interest and Participation

- 12.1 Where, in relations to an item on the agenda, a Councillor has a Disclosable Pecuniary Interest, that interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates.
- 12.2 The Councillor must thereafter leave the room when that matter falls to be discussed and take no part in the debate or the vote for that business.
- 12.3 A flowchart has been prepared and attached to these CSO.

## 13. Minutes

- 13.1 The **Monitoring Officer** will be responsible for the minutes of every meeting.
- 13.2 \*\*\*The minutes will be submitted for approval and signature as a correct record at the following meeting, unless that meeting is an extraordinary meeting in which case they may be submitted to the next ordinary meeting.
- 13.3 \*\*\*The names of Councillors present at a meeting or at part of a meeting will be recorded in the minutes.

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- 13.4 The Mayor shall put the question that the minutes of the previous meeting of the Council be approved as a correct record.
- 13.5 The only part of the minutes that can be discussed is their accuracy.
- 14. Leader and Cabinet Lead Report Questions at Full Council**
- 14.1 The Leader and Cabinet Leads may introduce their portfolio reports following which 15 minutes of question time may commence.
- 14.2 A Councillor may ask the Leader of the Council or a Cabinet Lead a question in respect of the content of the portfolio reports of the Cabinet submitted to Full Council.
- 14.3 The procedure for dealing with Leader and Cabinet Lead questions by Councillors shall be as follows:
- (a) The questioner shall ask the Leader or Cabinet Lead a question;
  - (b) The Leader or Cabinet Lead shall respond;
  - (c) A Councillor may ask one supplementary question. The supplementary question must be one which either directly arises out of the answer given or is required to clarify some part of the answer.
  - (d) All first questions from Councillors will be taken serially. Second questions will follow, then third questions and so on.
- 14.4 The Councillor to whom a question, or a supplementary question, is put may:
- i) decline to answer;
  - ii) refer the questioner to a Council document or publication where the answer may be found;
  - iii) undertake to supply an answer (either to the questioner or to all the Councillors) if an answer cannot conveniently be given when it is asked and circulate; or
  - iv) refer the question for answer to another member of the Cabinet.
- 14.5 No question shall exceed three minutes in duration in order to allow all those submitting questions to have a fair and equitable opportunity to ask their question within the time allotted for questions.

- 14.6 The total time for Leader and Cabinet Lead questions shall be 15 minutes, or such longer time as the Mayor may allow.
- 14.7 A question and answer shall not be the subject of discussion or debate.
- 14.8 A Councillor with a disclosable pecuniary interest in the subject matter of the question may not ask a question. If the disclosable pecuniary interest arises after notice has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice or the question.

## **15. Questions at Full Council**

- 15.1 Provided that the Monitoring Officer has received a copy of the question to be asked before 12 noon five Clear Working Days prior to the day of the Council meeting, a Councillor may:
- (a) ask the Leader or the relevant Chair of any Committee or Sub-Committee, about an issue in the Councillor's Ward; or
  - (b) ask the Leader or the relevant Chair of any Committee or Sub-Committee about some issue in which the Council has powers or duties or which affects the Borough; or
  - (c) ask the Chair of a Committee or Sub-Committee about something for which their committee has responsibility.
- 15.2 The Councillor to whom a question, or a supplementary question, is put may:
- (a) direct an oral answer
  - (b) decline to answer;
  - (c) refer the questioner to a Council document or publication where the answer may be found;
  - (d) undertake to supply an answer (either to the questioner or to all the Councillors) if an answer cannot conveniently be given when it is asked and circulate within seven Clear Working Days; or
  - (e) refer the question for answer to another member of the Cabinet.
- 15.3 The procedure for dealing with written questions by Councillors shall be as follows:
- (a) The questions and draft replies shall be published electronically the day of the Council meeting.

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- (b) ii) All first questions submitted by Councillors will be taken serially and taken as read first. Second questions will follow, then third questions and so on.
  - (c) The draft reply shall (without further comment) be taken to be the reply to the question unless the Leader (or Councillor answering on their behalf) indicates otherwise.
  - (d) A Councillor may ask one supplementary question. The supplementary question must be one which either directly arises out of the answer given or is required to clarify some part of the answer.
- 15.4 No question submitted under SO 15 shall exceed 100 words in length. The question may be accompanied by a statement of context which must not exceed 250 words and must be clearly separated from the text of the question.
- 15.5 No supplementary question shall exceed three minutes in duration in order to allow all those submitting questions to have a fair and equitable opportunity to ask their question within the time allotted for questions.
- 15.6 The total time for written questions shall be 15 minutes, or such longer time as the Mayor may allow.
- 15.7 A question and answer shall not be the subject of discussion or debate.
- 15.8 The Councillor to whom a question, or a supplementary question, is put may:
- (a) direct an oral answer
  - (b) decline to answer;
  - (c) refer the questioner to a Council document or publication where the answer may be found;
  - (d) undertake to supply an answer (either to the questioner or to all the Councillors) if an answer cannot conveniently be given when it is asked and circulate within seven Clear Working Days; or
  - (e) refer the question for answer to another member of the Cabinet.
- 15.9 Notice of a question may not be given by a Councillor with a disclosable pecuniary interest in the subject matter of the question. If the disclosable pecuniary interest arises after notice has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice or the question.
- 15.10 A question and answer shall not be the subject of discussion or debate.

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## **16. Content of questions**

16.1 The **Monitoring Officer** may rule out of order any question that:

- (a) is vexatious, derogatory, defamatory, frivolous or offensive;
- (b) concerns a Council employment or staffing matter or sensitive personal information about a Councillor;
- (c) is unrelated to functions of the Committee; or
- (d) has been previously considered in the last 6 months.

## **17. Record of Questions and Answers on Notice at Full Council**

17.1 Questions asked on Notice at Full Council under CSO 15 will be recorded in the minutes, as will any answer. For the avoidance of doubt, neither supplementary questions nor answers shall be recorded.

## **18. Notices of Motion to Full Council**

18.1 Except for the motions listed in CSO 19 written notice of every motion must be received by the Democratic Services Manager no later than 12 noon seven Clear Working Days before the meeting.

18.2 No motion shall exceed 150 words in length. The motion may be accompanied by a statement of context which must not exceed 250 words and must be clearly separated from the text of the motion. A template has been made available to assist Members.

18.3 Motions must be formally proposed by a minimum of two Councillors.

18.4 The proposer of the motion will be taken as being the first name on the Notice of Motion, with a seconder noted, unless otherwise indicated on the notice. Email confirmation of support for the motion must be received in writing by both councillors.

18.5 A notice of motion may not be given by a Councillor with a disclosable pecuniary interest in the subject matter of the motion. If the disclosable pecuniary interest arises after a notice of motion has been given, the notice shall be of no further effect, and no further action shall be taken in respect of the notice of motion.

18.6 The motion may be withdrawn from the agenda if the proposer and/or seconder is not present at the time that it is due to be considered.

18.7 The **Monitoring Officer** will keep any motion received, together with a record of the time and date of receipt, in a register available for inspection.

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- 18.8 Motions must relate to some matter of public, local or general concern or interest and should be about something for which the Council has responsibilities, or which affects the Borough. Motions should be about a single discreet issue.
- 18.9 No motion may seek to take a decision in respect of a matter which is the responsibility of the Cabinet or other statutory body (other than to make a recommendation).
- 18.10 The Chief Executive or Monitoring Officer in his/her absence may:
- (a) exclude from the Council agenda any motion which he/she considers to be out of order;
  - (b) amend any motion subject to the agreement of the proposer;
  - (c) rule out of order any motion that is vexatious, derogatory, defamatory, frivolous or offensive;
  - (d) rule out of order any motion that concerns a Council employment or staffing matter or sensitive personal information about a Councillor;
  - (e) rule out of order any motion that is unrelated to functions of the Committee;  
or
  - (f) rule out of order any motion that has been previously considered in the last 6 months.
- 18.11 Motions will be listed on the Council agenda in the order received.
- 18.12 No more than three Motions shall be considered at any one Council meeting. No Councillor shall have more than two motions on the same agenda.
- 18.13 The proposer may withdraw a motion at any time prior to its consideration. Such a withdrawal must be put in writing to the Monitoring Officer.
- 18.14 When the proposer of a motion is unable to attend the Council meeting he/she may write to the Mayor of the Council authorising another Councillor who signed the motion to move it. If no such authority has been given, the motion falls.
- 18.15 Motions containing proposals which may:
- (a) increase capital and/or, revenue expenditure;
  - (b) reduce the income of any committee; and/or
  - (c) have legal or policy implications

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must first be referred to the Cabinet by the Monitoring Officer prior to consideration by Full Council.

- 18.16 Prior to consideration of a motion, the Mayor of the Council may invite the meeting to decide whether it should be referred to the Cabinet or an appropriate committee(s) for a report prior to consideration by Full Council. The Mayor may do so without explanation.
- 18.17 On receipt of a motion on notice the Mayor, Leader or Cabinet Lead may request an officer briefing note be made available to all Councillors setting out the risks, financial and legal implications of the motion.

## **19. Motions Without Notice at Full Council**

19.1 The following motions may be moved without notice. There will be no discussion:

- (a) to appoint a **Councillor** to chair the meeting;
- (b) to correct the minutes of the previous meeting;
- (c) to change the order of business on the agenda;
- (d) to combine debates on items on the agenda;
- (e) to withdraw an item from the agenda;
- (f) to move committee minutes;
- (g) subject to CSO 20.1 and 20.2 to amend any motion;
- (h) to withdraw any motion or amendment (by the mover);
- (i) to not hear a **Councillor** further;
- (j) to require a Councillor to leave the meeting;
- (k) to extend the time limit on speeches;
- (l) to exclude the public/press during consideration of confidential business;
- (m) to suspend particular standing orders (see CSO 31);
- (n) to go to the next business. If seconded, the vote will then be taken. If carried, the item under discussion will be treated as withdrawn;

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- (o) to put the question immediately to a vote. If seconded, the vote will then be taken. If carried, the mover of the original motion shall have a right of reply;
  - (p) to adjourn the debate. If seconded, the vote will then be taken, and if carried, there are no rights of reply. On resuming the debate, the Councillor who moved the original motion will have the right to speak first; and
  - (q) to adjourn the meeting. If seconded and before taking the vote, the Mayor of the Council will deal with any unopposed business (i.e. against which no amendment has been notified in accordance with CSO 20). If the motion to adjourn is carried, there will be no right of reply allowed.
- 19.2 If a motion under CSO 20.1 is not carried, it cannot be moved again on the same item unless the Mayor of the Council decides the circumstances have changed significantly.

## **20. Amendments to be Moved at Full Council**

- 20.1 Subject to CSO 20.2, 20.3, 20.4, 20.5 and 20.6 amendments to be moved at **Full Council** must be in writing and be received by the **Monitoring Officer** at least two hours before the meeting.
- 20.2 Amendments to items of urgent business circulated on the day of the meeting must be in writing and received by the Monitoring Officer within two hours of the item being circulated to Councillors.
- 20.3 When the **Cabinet** makes recommendations to the Full Council in relation to calculating the budget requirement and setting the Council tax, any amendments to those recommendations which affect those calculations or the level of Council tax must be submitted in writing and received by the Monitoring Officer by 4pm on the seventh day after the meeting of the Cabinet. Any such amendment, together with the recommendations of the Cabinet, will be referred to the Overview & Scrutiny Committee which will report to the Full Council meeting at which the Full Council calculates the budget and sets the Council Tax (the **Budget Council meeting**).
- 20.4 Nothing in CSO 20.4 will prevent:
- (a) **Councillors** moving amendments at the Budget Council meeting in accordance with Council Procedure CSO 20.3 ; or
  - (b) the Cabinet reconvening and revising their recommendations to the Budget Council meeting.

- 20.5 Where such amendments or revised recommendations arise out of the proceedings of the Overview & Scrutiny Committee, nor will anything in CSO 20.3 require a further meeting of the Overview & Scrutiny Committee in such circumstances.
- 20.6 Amendments to the **Full Council** concerning the Constitution (other than amendments proposed by the Monitoring Officer pursuant to **Part 2** of this Constitution) must be submitted in writing and received by the Monitoring Officer not later than 12 noon on the ninth day preceding the Council meeting (e.g. where the Council meeting is held on a Wednesday, the Monday in the week preceding the meeting) unless that day is not a working day in which case the amendment must be received by noon on the first working day thereafter.
- 20.7 Where the Monitoring Officer has submitted proposals to change the Constitution pursuant to **Part 2** of this Constitution, nothing in Council Procedure CSO 20.5 shall prevent Councillors from:
- (a) disapproving the proposed changes; or
  - (b) moving amendments to the proposed changes at Full Council in accordance with Council Procedure CSO 20.1.

## **21. Rules of Debate**

### **Speeches at Full Council**

- 2.1 Speeches on motions and amendments will be in the following order:
- (a) mover then seconder of a motion. No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded;
  - (b) mover then seconder of any amendment;
  - (c) any other **Councillor** including those who have reserved the right to speak; and
  - (d) right of reply of mover of the original motion.
- 21.2 The right of reply is to enable points made in the debate to be answered. A Councillor exercising a right of reply shall confine themselves to answering previous speakers and shall not introduce new matters or material. New matters must not be introduced. The Mayor's ruling on this shall be final and not open to discussion.

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- 21.3 A **Councillor** may only speak once on a motion or an amendment except:
- (a) when exercising a right of reply;
  - (b) when raising a point of order;
  - (c) when giving a personal explanation; or
  - (d) when exercising a reserved right to speak.
- 21.4 The right to speak later in the debate must be reserved when seconding a motion or amendment.
- 21.5 This right is subject to the **Councillor** being called upon by the Mayor of the Council to speak.
- 21.6 A **Councillor** may only speak about the matter under debate except when raising a point of order or giving a personal explanation.

### **Content and Timing of Speeches**

- 21.7 Speeches must be directed to the question under discussion or to a personal explanation or point of order. Without the consent of the Mayor, save where otherwise specified, the maximum length of speeches shall be as follows:
- (a) Movers of motions: 5 minutes
  - (b) Movers of amendments: 5 minutes
  - (c) All other speakers: 5 minutes
  - (d) All rights of reply: 5 minutes
- 21.8 There shall be no time limit for either the Leader of the Council or the Cabinet Lead for Finance and the finance spokesperson of the opposition group(s) at the **Budget meeting** of the **Full Council**.

### **Consideration of Recommendations**

- 21.9 Where the Cabinet or Committee is reporting a matter which is reserved to Council, the relevant Cabinet Lead or Committee Chair (or a member of the relevant Committee nominated by the chair of that Committee) will introduce the report. The recommendation of the Cabinet or Committee in the report is deemed to be moved and seconded and the motion shall operate (without further words being necessary) as a motion. The normal rules of debate shall apply to any debate on the recommendations. **Amendments to Motions**

- 21.10 An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words provided the effect of (a) to (c) is not to negate the motion.
- 21.11 The Mayor may require the amendment to be written down and handed to the Monitoring Officer before it is discussed.

### **Submission of Motions and Amendments**

- 21.12 Motions and amendments must relate to items included on the agenda or accepted by the meeting as urgent business.
- 21.13 An amendment cannot be considered if it is inconsistent with an amendment previously adopted or repeats an amendment previously rejected.
- 21.14 The mover of a motion may, with the consent of the mover of an amendment, incorporate an amendment into the motion. If this happens, the mover of the amendment will have the same speaking rights as if the amendment had been debated separately.
- 21.15 Motions and amendments cannot be debated until they have been moved and seconded.
- 21.16 Subject to CSO 19.1(d) only one amendment may be moved and debated at any one time. No further amendments can be moved until the previous amendment has been dealt with.
- 21.17 Each amendment must be voted on separately.
- 21.18 If an amendment is carried, the amended motion becomes the substantive motion to which further amendments may be moved.
- 21.19 If an amendment is lost, other amendments may be moved to the original motion.
- 21.20 The mover may withdraw an amendment at any time in which case no debate will be allowed.

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- 21.21 After an amendment has been carried, the Mayor of the Council will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.
- 21.22 The original or substantive motion, or any recommendation before the Council shall at the close of debate be put to the vote. No amendment may be moved after the original or substantive motion has been voted upon and no further discussion may then take place.
- 21.23 A flowchart showing how decision is attached to these CSO.

### **Questions**

- 21.24 No questions may be asked in debate.
- 21.25 After a motion on notice is proposed and seconded, the Mayor may in exceptional circumstances invite Councillors to ask questions of the proposer of a notice on motion or the proposer of a recommendation in a report.

### **Motions Moved During Debate**

- 21.26 When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw a motion;
  - (b) to amend a motion;
  - (c) to proceed to next business;
  - (d) that the question now be put;
  - (e) to adjourn a debate,
  - (f) to adjourn a meeting;
  - (g) to exclude the public and press in accordance with the Access to Information Standing Orders; and
  - (h) to not hear a **Councillor** further

### **Right of Reply**

- 21.27 The mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote.
- 21.28 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 21.29 The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion.
- 21.30 A councillor exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Mayor's ruling on this shall be final and not open to discussion.
- 21.31 A decision shall be taken immediately after the right of reply has been exercised.

### **Points of Order**

- 21.32 A Councillor may raise a point of order at any time. The Mayor shall hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The Councillor must indicate the Standing Order or law and the way in which they consider it has been broken. The ruling of the Mayor on the matter will be final.

### **Personal Explanation**

- 21.33 A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.
- 21.34 The ruling of the Mayor on a point of order, or on the admissibility of a personal explanation, shall not be open to discussion.

### **Inappropriate or Excessive Interventions**

- 21.35 Any use of CSO 21.32 and 21.33 which the Mayor shall judge to be excessive shall be deemed to be a breach of order.

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## **22. Voting**

### **Majority**

- 22.1 Unless the law or this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

### **Mayor's casting vote**

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

Show of hands

- 22.3 Unless a vote is demanded under CSO 22.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **Recorded vote**

- 22.4 If 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

- 22.5 Where any Member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **Voting at Budget Meeting**

- 22.6 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

### **Voting Other**

- 22.7 If there are more than two people nominated for any one position to be filled and there is not a clear majority in favour of one person, then the name of the person with the

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least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

- 22.8 A decision to promote or oppose a local or personal Bill in Parliament under Section 239 of the Local Government Act 1972 or to [apply for or] oppose an order under the Transport and Works Act 1992 will require to be passed by a majority of the whole number of the Council (i.e. 22 affirmative votes are required).

## **23. Conduct at Meetings**

### **Respect for the Mayor**

- 23.1 The Mayor is required to ensure that the meeting is conducted in a calm atmosphere of decorum.
- 23.2 **Councillors** should stand (if able) to address the meeting through the Mayor of the Council unless the Chair has decided that that item should be taken in committee mode.
- 23.3 **Councillors** should use the microphone where one is provided.

### **Closure Motions**

- 23.4 When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.
- 23.5 If a Councillor behaves improperly or offensively or deliberately obstructs business, the Mayor may direct the Councillor to be silent.
- 23.6 If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.
- 23.7 If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 23.8 If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If the interruption continues, the Mayor will order their removal.
- 23.9 If there is a disturbance which interrupts proceedings, or makes business impossible, the Mayor may call for the room to be cleared of those making the disturbance, and may adjourn the meeting for as long as necessary.

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- 23.10 No person shall distribute or display advertisements or literature promoting the activities of any political party at meetings of Council.
- 23.11 If a meeting is adjourned and a Councillor is able to attend the adjourned meeting but not the first meeting they shall take no part in any debate or vote on matter they have not been present from the start.
- 23.12 Councillors are in the privileged position of representing their residents and are expected where possible to reflect that privilege in their behaviour and dress at Full Council.

## **24. Previous Decisions and Motions (Six Months' Rule)**

- 24.1 Decisions of the Council made within the last six months may not be changed, unless this CSO is suspended.
- 24.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved, unless this CSO is suspended.
- 24.3 This Standing Order shall not apply to any motion arising from a recommendation or report from a Statutory Officer.

## **25. Statutory Officers speaking during debates**

- 25.1 Any Statutory Officer or their representative may signify they wish to speak.
- 25.2 The Mayor shall then use their discretion to call upon the Officer at an appropriate point during the debate.
- 25.3 The subject matter on which an Officer may speak shall be confined to providing:
- (a) relevant information; or
  - (b) explanation or interpretation of any law, regulation, protocol or procedure.
- 25.4 The Mayor may, at their discretion, permit a Councillor to seek, through the Chair, the opinion of any Statutory Officer present at the meeting on a particular point.
- 25.5 Any Statutory Officer may be called upon to speak by the Mayor who shall indicate the subject matter.
- 25.6 Where an Officer is presenting a report of which prior notice has been given, the above CSO do not apply in relation to the presentation.

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## **26. Reporting of Meetings by the Public and Press**

Any member of the public or press attending a public meeting of the Council may record the proceedings and report them to others. Further information is contained in the Access to Information Standing Orders.

## **29. Exclusion Of Public**

Members of the public and press may only be excluded either in accordance with the law, the Access to Information CSO in Part 4 of this Constitution or CSO 23.8 (Disturbance by Public)

## **30. Interpretation and Chairman's Ruling**

30.1 These Council Standing Orders (CSO) apply to meetings of the **Full Council** and, where appropriate, to meetings of committees and sub committees. These CSO do not apply to meetings of the **Cabinet** – for which see the Cabinet (Executive) Standing Orders.

30.2 References in these CSO to the Mayor of the Council, **Leader** of the Council or Chair, include the appointed deputy or any other Councillor acting in their absence.

30.3 References in these CSO to the Mayor of the Council shall include the Chair of any meeting where appropriate.

30.4 These CSO should be read in conjunction with other parts of the Council's Constitution.

30.5 \*\*\*These CSO are subject to any statute or other enactment whether passed before or after these Standing Orders came into effect.

30.6 The ruling of the Mayor of the Council on the application and interpretation of these CSO is final and not open to challenge at the meeting.

## **31. Suspension and Amendment of Council Standing Orders**

31.1 \*\*\*With the exception of the CSO marked by an asterisk (\*\*\*), any CSO may be suspended at a meeting of the **Full Council**, a committee or sub-committee either by a motion included on the agenda or by a motion put to the meeting without notice and passed by a majority of those present and voting. A motion to suspend any CSO will not be moved without notice unless at least one half of the whole number of Councillors are present.

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31.2 Council Standing Orders may be changed by **Full Council** either at the Annual Meeting or following recommendation by the relevant Committee or by a motion or notice made at a meeting of the **Full Council**.

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## Part B

### Public Participation at Full Council - Petitions, Public Addresses And Questions

#### 1. Petitions

- 1.1 Petitions shall be managed in accordance with the Petition Scheme save as provided elsewhere within the Constitution or as provided by law.
- 1.2 Petitions containing 1500 signatures or more (a qualifying petition) will require a debate at a Council meeting.
- 1.3 Petitions containing a minimum of 750 signatures but less than 1500 signatures and requesting a senior officer to give evidence will be referred to a public meeting of the Overview and Scrutiny Committee in the first instance.

#### Debate on Petitions

- 1.4 A qualifying petition will require a debate at Full Council, if timescales permit, except where the petition is asking for a senior officer to give evidence. Where timescales do not allow a debate at Full Council, the matter will be referred to the next available meeting of Full Council.
- 1.5 Petition debates will not take place at the Council's budget setting or annual meetings.
- 1.6 Petition organisers are welcome to present their petition at full Council up to a maximum of 5 minutes.
- 1.7 Councillors may then debate the petition subject to an overall maximum of 15 minutes in accordance with the Council's Standing Orders, after which a vote will be put.

#### Response to Petitions

- 1.8 Following presentation of and any debate on the petition, and in the absence of any proposal in respect thereto, the petition shall be noted by the Council which will then proceed to next business.
- 1.9 Alternatively, the Council may decide how to respond to the petition at this meeting. It may decide:
  - (a) To take the action the petition requests;

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- (b) Not to take the action the petition requests for reasons stated in the debate;
- (c) To commission further investigation into the matter prior to consideration at a future meeting of the Council, which may include holding an inquiry or public meeting, commissioning research or reference to a particular committee or body for their views;
- (d) To refer the petition to Cabinet or the relevant Cabinet Member meeting where the matter relates to an Executive function, in which case the Council may make recommendations to the relevant Executive decision.

## **2. Address from the Public**

- 2.1 An address made by a member of the public may only be presented if a summary of the text has been received by the Democratic Services Manager no later than 12 noon four clear working days before the meeting. The speech shall reflect the summary provided.

## **3. Questions**

- 3.1 Meetings of the Council will allow a period not exceeding 15 minutes during which time members of the public may ask the Leader or Committee/Sub Committee Chairs questions relating to matters over which the Council has powers or duties, or which affect the Borough.
- 3.2 Questions from members of the public will only be permitted where they have been received by the Democratic Services Manager no later than 12 noon four clear working days before the meeting.
- 3.2 All questions must be received in advance of the meeting and no supplementary questions are not permitted.
- 3.3 A member of the public may not submit more than 3 questions for any Council meeting.
- 3.4 Questions shall be asked in the order received, except the Mayor may group together similar questions. If more than two questions are submitted by the same person, the third person shall be moved to the end of the agenda item.
- 3.5 No question shall exceed 100 words in length on order to allow all members of the public submitting question to have a fair and equitable opportunity to ask their question within the time allotted. The question may be accompanied by a statement of context which must not exceed 250 words and must be clearly separated from the text.

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- 3.6 The **Monitoring Officer** may reject any question that:
- (a) is a matter about which the Council has no responsibility nor affects the Borough,
  - (b) is vexatious, derogatory, defamatory, frivolous or offensive;
  - (c) concerns a Council employment or staffing matter or sensitive personal information about a Councillor;
  - (d) Requires disclosure of confidential or exempt information
  - (e) is unrelated to functions of the Council; or
  - (f) Is the same or very similar to a question that has been previously considered in the last 6 months.
- 3.7 The Mayor shall invite the questioner to put the question to the Councillor named in the notice. If the questioner who has submitted a written question is unable to be present they may ask the Democratic Service Manager to put the question on their behalf.
- 3.8 The Councillor to whom a question is put may:
- (a) direct an oral answer
  - (b) decline to answer;
  - (c) refer the questioner to a Council document or publication where the answer may be found;
  - (d) undertake to supply an answer (either to the questioner or to all the Councillors) if an answer cannot conveniently be given when it is asked and circulate within seven Clear Working Days; or
  - (e) refer the question for answer to another member of the Cabinet.
- 3.9 A question and answer shall not be the subject of discussion or debate.

#### **4. Conduct of the public**

- (a) If a member of the public interrupts proceedings, the Mayor shall warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room. If there is a general disturbance in any part

of the meeting room open to the public, the Mayor may call for that part to be cleared.

- (b) Where any meeting of the Council, is open to the public, any person shall, subject to paragraph (a) above, be permitted to attend for the purpose of reporting on the meeting and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities during the meeting. "Reporting" includes photographing or making a video or audio recording of proceedings at a meeting and providing commentary on proceedings using social media.
- (c) Paragraph (b) above does not require the Council to permit oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting.
- (d) Where the public have been excluded from a meeting in accordance with the Access to Information Procedure Rules, no person shall be permitted to report on the meeting using methods which can be used without that person's presence at the meeting, and which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

## Part C

### Political Groups and Election of Leader

#### 1 Political Groups and Leaders

- 1.1 A political group will be treated as constituted when the **Monitoring Officer** has received a notice in writing signed by two or more **Councillors** stating:
- (a) that the Councillors who have signed it wish to be treated as a political group;
  - (b) the name of the group; and
  - (c) the name of one member of the group who has signed the notice and who is to act as its leader.
- 1.2 The notice may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader of the group (This authorised member is referred to as "the representative").
- 1.3 The leader of the group may be changed by a further notice in writing to the Monitoring Officer signed by a majority of the members of the group.
- 1.4 The name of the group and of "the representative" may be changed by a further notice in writing to the Monitoring Officer signed by the leader of the group or a majority of the members of the group.
- 1.5 \*\*\*A Councillor is to be treated as a member of a political group if s/he has:
- (a) signed a notice in accordance with; or
  - (b) given the Monitoring Officer a notice in writing, signed by her/him and by the leader (or representative) of the group or by a majority of members of the group, stating that s/he wishes to join the group.
- 1.6 \*\*\*A person is to be treated as having ceased to be a member of a political group when:
- (a) s/he has ceased to be a member of the Authority;

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- (b) s/he has notified the Monitoring Officer in writing that s/he no longer wishes to be treated as a member of the group;
- (c) s/he joins another political group; or
- (d) the Monitoring Officer receives a notice in writing signed by a majority of members of the group stating that they no longer wish her/him to be treated as a member of it.

- 1.7 \*\*\*No person shall be treated as a member of more than one political group at any given time.
- 1.8 The Chief Executive will keep and maintain a record of the current membership of each political group.
- 1.9 The **Leader** of the Council will be elected at the Annual Meeting of the **Full Council** and subsequently as necessary in accordance with CSOs.
- 1.10 The Leader of the next largest Political Group or combination of Groups (as chosen by the members of the group/s) will be known as the Leader of the Opposition.

## 2. **The Leader**

The **Leader** will be a **Councillor** elected for a one year term to the position of Leader by simple majority of the **Full Council**. In the event that only one nomination is put forward, a vote will still be taken, in accordance with Part 2 Section D **Executive Functions**.

## Part D – Committees and Sub-Committees

### 1 Arrangements for Committee and Sub Committee Meetings

- 1.1 Meetings of committees and sub-committees will be convened by the **Chief Executive** in consultation with the committee's Chair.

### 2 Establishment of Committees and Sub-Committees

- 2.1 Subject to the below, the Council may establish such committees as it considers necessary to carry out the work of the Council and may refer to those committees such matters as are considered appropriate.
- 2.2 The Council shall establish a Licensing Committee.
- 2.3 The Council shall establish a Planning Committee.
- 2.4 The Council shall establish an Audit and Finance Committee.
- 2.5 The Council shall establish an Overview & Scrutiny Committee.
- 2.6 The Council shall establish a Standards Committee.
- 2.7 The Council shall establish a Joint Human Resources Committee.
- 2.8 The Council shall appoint a Climate Champion.
- 2.9 Committees may establish standing sub-committees, to carry out the work of the committee and may refer to those sub-committees such matters as are considered appropriate. Committees may also establish ad hoc sub-committees to consider any specific matter referred to them.
- 2.10 **\*\*\***Except in relation to those decisions which by statute must only be taken by the **Full Council**, the Council may delegate powers to committees or sub-committees.
- 2.11 Where a matter has been delegated to a committee, the committee may further delegate the matter to a sub-committee unless the Council otherwise direct.
- 2.12 **\*\*\***where a matter is delegated the decisions of the committee or sub-committee do not require approval by the **Full Council** (or committee) unless the delegation has been previously withdrawn in relation to the particular item.

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### 3. Membership of Committees, Sub-Committees and Panels and Joint

- 3.1 \*\*\*In relation to committees the Annual Meeting of the Full Council will:
- (a) determine the number of Councillors to serve on them;
  - (b) allocate seats on them to the political groups in accordance with the principles of political balance where required; and
  - (c) appoint named Councillors to them giving effect to the wishes (where expressed) of each political group.
- 3.2 \*\*\*Appointments to all sub-committees will be made by their parent committees in accordance with:
- (a) the principles of **political balance** as necessary (as to the allocation of numbers of seats); and
  - (b) the wishes of the political groups (as to individual appointments).
- 3.3 Those serving on sub-committees are not required to be members of the parent committee unless required by law or standing orders.
- 3.4 Where the Council is entitled to seats on a joint authority or on a **Joint Committee** with another local authority or local authorities, appointments to such seats will be made by **Full Council**.
- 3.5 \*\*\*Where the Council is entitled to three or more seats on a joint authority or **Joint Committee** ("relevant joint authority/joint committee"), the Council in making appointments will:
- (a) allocate seats on them to the political groups in accordance with the principles of **political balance**; and
  - (b) appoint members to them giving effect to the wishes (where expressed) of the relevant political group.
- 3.6 \*\*\*The principles of **political balance** are defined in this Constitution.
- 3.7 \*\*\*Where a political group wishes to change one of its appointed members on a committee or sub-committee, the Council or parent committee shall give effect to that group's wishes.

\*\*\*These Council Procedure CSO may not be suspended

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3.8 \*\*\*Where there is a change in the **political balance** of the Council, the allocation of seats on committees and sub-committees will be reviewed and changes made as soon as practicable:

(a) to reflect the new political balance; and

(b) the wishes of the political groups.

3.9 Non-voting co-opted members may be appointed by:

(a) the Council, to serve on its committees; and

(b) committees to serve on their sub-committees.

3.10 As well as allocating seats on committees, the **Full Council** may allocate seats in the same manner for reserve members.

3.11 For each committee, the **Full Council** may appoint up to the same number of reserve members in respect of each political group as that group holds seats on that committee.

3.12 Reserve members will have all the powers and duties of an ordinary member of the committee but will not be able to exercise any special powers exercisable by the person they are substituting.

3.13 Reserve members may attend meetings only in the capacity set out below:

(a) to take the place of the ordinary **Councillors** for whom they are designated reserve;

(b) where the ordinary Councillor will be absent for the whole of the meeting; and

(c) after notifying Democratic Services on the day of the meeting of the intended substitution.

#### **4. Chair and Vice-Chair**

4.1 The Annual Meeting of **Full Council** will appoint chair and (where required) vicechair of all committees, panels and boards.

4.2 The Chair and (where required) vice-chair of sub-committees will be appointed by the parent committee.

4.3 The Full Council may at any time remove a Chair or vice-Chair of a committee.

\*\*\*These Council Procedure CSO may not be suspended

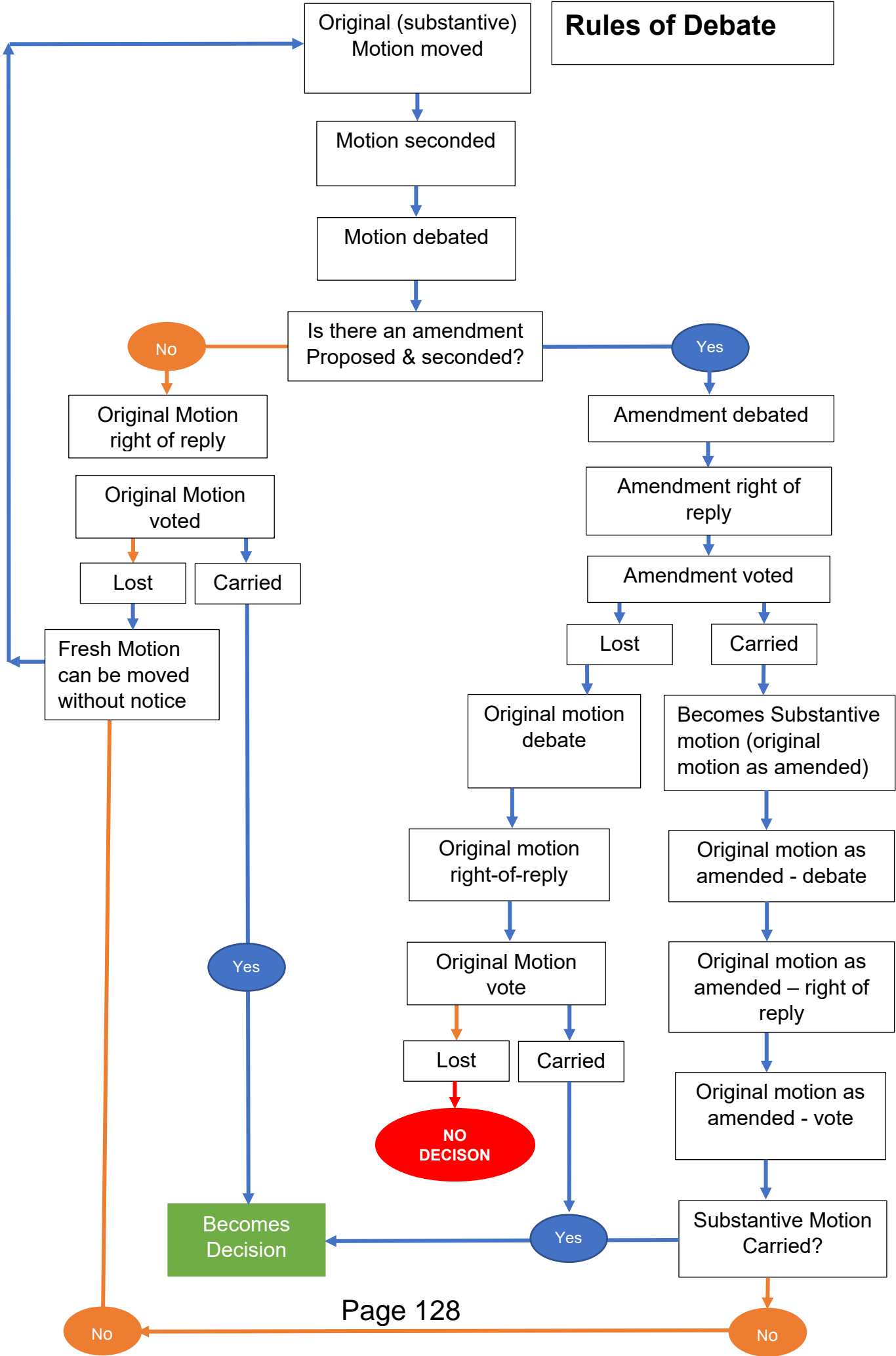
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- 4.4 Where there is a vacancy for Chair, the vice-Chair will act as Chair until the Full Council fills the vacancy.
- 4.5 Where there are vacancies for both Chair and vice-Chair, the committee or subcommittee will appoint one of its members to be temporary Chair until the vacancy is filled by the Full Council.
- 4.6 Written notice of the resignation of a Chair or vice-Chair will be effective on receipt by the Monitoring Officer..
- 4.7 If the Chair and vice-Chair are disqualified from acting, are absent, or decline to act as Chair, the meeting will appoint another member to chair the meeting. If that Councillor has to leave, another Councillor should be appointed.
- 4.8 A **Joint Committee** should appoint a member of the committee to chair the meeting.

## **5. Decisions Taken Under Delegated Powers**

- 5.1 Decisions taken by a relevant committee and sub-committee exercising delegated powers will become valid decisions of the authority with immediate effect, subject to the provisions of the Access to Information Standing Orders and Overview & Scrutiny Standing Orders.

# Rules of Debate



## Principles for Voting

1. There may only be one motion on the table at any one time;
2. There may only be one amendment on the table at any one time;
3. Any number of amendments can be moved and considered, but only one at a time
4. Motions and Amendments must be proposed and seconded
5. The amendment should be voted on first. If the voting goes against the amendment, then discussion can continue on the original motion.
6. Each motion / amendment has a proposer / seconder / debate / right of reply / vote.

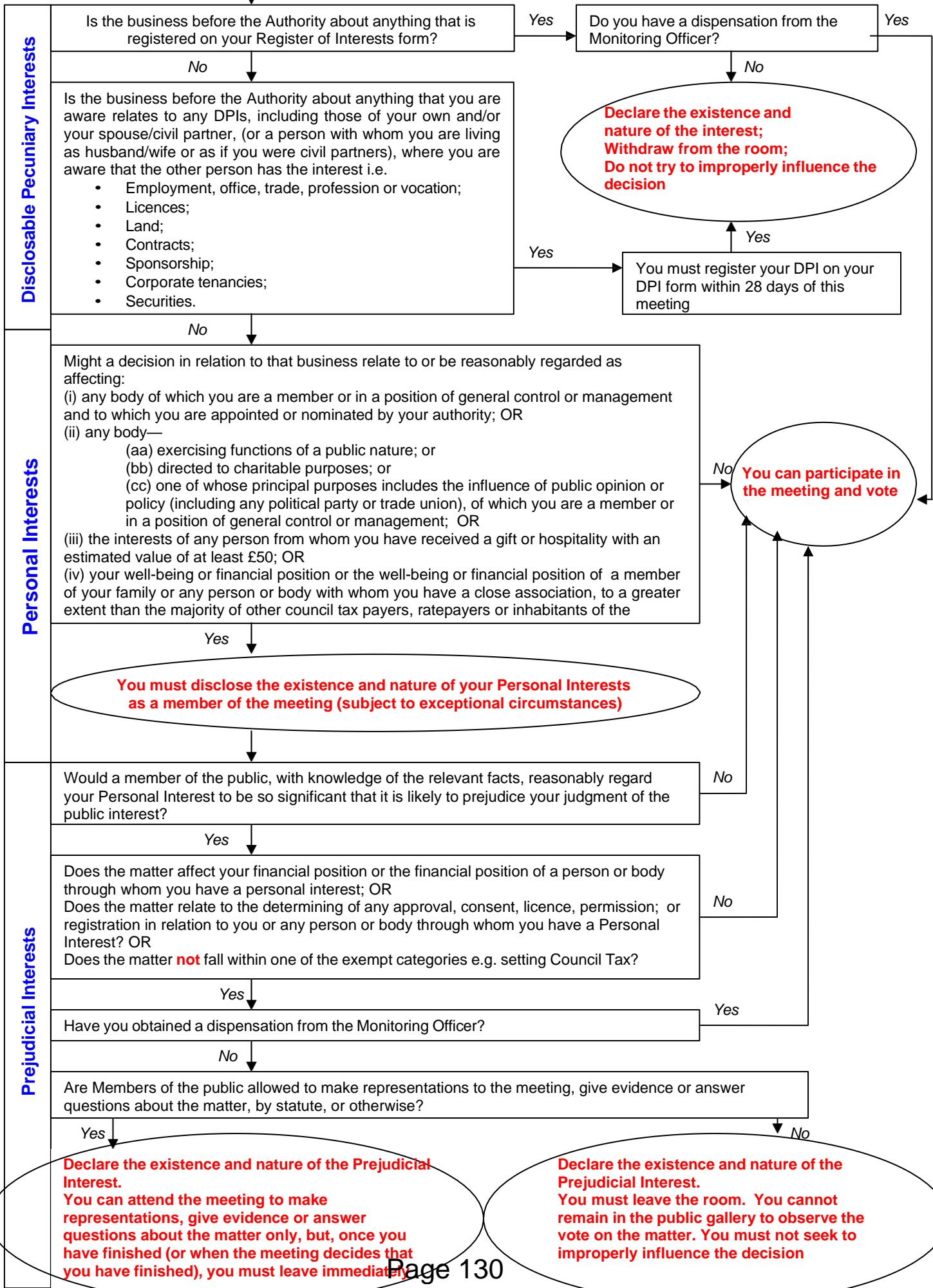
### Sample Text

Motion amended and carried

Motion amended and lost

# DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

What matters are being discussed at the meeting?



## DISCLOSABLE PECUNIARY INTERESTS

*The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* (the 'Regulations'), in relation to disclosable pecuniary interests require you to notify the Monitoring Officer of any 'disclosable pecuniary interests'.

These provisions are enforced by criminal sanction and so Members must comply with the Regulations.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

- (i) Employment, office, trade, profession or vocation;
- (ii) Sponsorship;
- (iii) Contracts;
- (iv) Land
- (v) Licences;
- (vi) Corporate tenancies; and
- (vii) Securities

Non participation in case of disclosable pecuniary interest

- A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting.
1. You may not participate in any discussion of the matter at the meeting;
  2. You may not participate in any vote taken on the matter at the meeting.
  3. If the interest is not registered, you must disclose the interest to the meeting.
  4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.

**Note:** In addition, the Code requires you to leave the room where the meeting is held while any discussion or voting takes place.

- B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him in the discharge of the function, the executive member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware. The member must not take any steps or further steps in the matter.

### Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## Offences

It is a criminal offence to fail to notify the Monitoring Officer of any disclosable pecuniary interests (DPIs). This requirement arises in each of the following circumstances:

- (a) before the end of 28 days beginning with the day on which you become a member or co-opted member of the *authority* (s30(1) *Localism Act 2011*);
- (b) where the DPI is not entered in the authority's register and is not the subject of a pending notification, but is disclosed at a meeting of the authority (or any committee, sub-committee, joint committee or joint sub-committee) as required by s31(2) of the Localism Act, within 28 days beginning with the date of the disclosure (s31(3) *Localism Act 2011*);
- (c) where the DPI is not entered in the authority's register and is not the subject of a pending notification, within 28 days beginning with the date when you become aware that you have a DPI in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority (s31(7) *Localism Act 2011*).

It is also a criminal offence to knowingly provide information that is false or misleading (or being reckless as to whether the information is true and not misleading).

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.



**Part Three**  
**Section B**  
**Access to Information Procedure**  
**Rules**

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## 1. **Scope**

- 1.1 These rules cover all meetings of the **Full Council** and its committees, sub-committees, advisory panels, the **Cabinet** (together called meetings) and (where specified) **executive decisions** made by **Cabinet members** and **key decisions** made by officers.
- 1.2 These rules also cover **Councillors'** rights of access to information.
- 1.3 These Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## 2. **Principles**

- 2.1 These rules will be interpreted, where possible, in accordance with the following guiding principles / presumptions:
  - a. Openness: the right of the public to gain access to meetings and documents;
  - b. Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
  - c. Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

## 3. **Rights to Attend Meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules

## 4. **Notices of Meetings**

- 4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting on its website and at its office.
- 4.2 Councillors entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the Annual Meeting of the **Full Council**, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

## 5. **Public Access to Agenda and Reports before the Meeting**

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened. If an item is added to the agenda later, the revised

agenda will be open to inspection and published on the Council's web site from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Democratic Services Team Leader shall make each such report available to the public as soon as the report is completed and sent to Councillors.

- 5.2 An item may be added to an agenda after it has been published provided that the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency and the urgency reasons are recorded in the minutes.
- 5.3 Details of late items and associated report will be made available to Councillors and the public as soon as this is made available for inspection and published on the Council's web site.
- 5.4 This Procedure Rule does not require the publication of exempt or confidential information.

## **6. Supply of Copies**

- 6.1 The Council will supply copies to any person of:
  - a. any agenda and reports which are open to public inspection;
  - b. any further statements or particulars, if any, as are necessary to indicate the nature of the items in the agenda; and
  - c. if the **Monitoring Officer** thinks fit, copies of any other documents supplied to Councillors in connection with an item.
- 6.2 Copies of the digital agendas of **Cabinet** meetings will be circulated to all Councillors.
- 6.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

## **7. Public Access to Minutes etc. After the Meeting**

- 7.1 The Council will make available copies of the following for six years after a meeting:
  - a. the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - b. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

- c. the agenda for the meeting; and
- d. reports relating to items when the meeting was open to the public.

## **8. Public Access to Background Papers**

### **8.1 List of background papers**

8.1.1 The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a. disclose any facts or matters on which the report or an important part of the report is based; and
- b. which have been relied on to a material extent in preparing the report,

but does not include published works or those which disclose exempt or confidential information (as defined in Procedure Rule 9) and in respect of Cabinet reports, the advice of a political advisor.

### **8.2 Public inspection of background papers**

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

## **9. Exclusion of Access by the Press and Public to Meetings**

### **9.1 Confidential information - requirement to exclude the press and public**

The press and public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **9.2 Exempt information - discretion to exclude press and public**

The press and public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, provided:

- a. the meeting resolves so to exclude the press and public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- b. that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 9.4 below), the description of the exempt information giving rise to the exclusion of the public; and

- c. that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information,

where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 9.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by reason of a Court Standing Order or any enactment.

### 9.4 Meaning of exempt information

Exempt information means information falling within the following 7 descriptions (subject to any qualifications):

	Description	Qualification
1.	Information relating to any individual.	Information within paragraph 1 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2.	Information which is likely to reveal the identity of an individual.	Information within paragraph 2 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information within paragraph 3 is not exempt information if it is required to be registered under- (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986;or (f) the Charities Act 2011.  Subject to the above, information within paragraph 3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information within paragraph 4 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information within paragraph 5 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6.	Information which reveals that the authority proposes – a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment.	Information within paragraph 6 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information within paragraph 7 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

## 10. Exclusion of Access by the Public to Reports

- 10.1 If the **Monitoring Officer** thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Procedure Rule 9, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## 11. Key Decisions

Certain executive decisions will be **key decisions**. Key decisions are defined in the Glossary.

## 12. Application of Procedure Rules to the Executive

12.1 The **Executive** has decided that all of its meetings and its committees are to be held in public whether or not a key decision is to be made and Council Standing Orders apply.

12.2 In addition, if a **key decision** is to be made Procedure Rules 13 – 24 also apply.

12.3 If the **Cabinet** or its committees meet to discuss a **key decision** that is due to be taken collectively and:

- a. an officer (other than a political adviser) is present at the discussion; and
- b. the discussion is within 28 days of the date by which, according to the Forward Plan, the decision is to be made,

then Procedure Rules 13- 24 must be complied with unless Procedure Rule 15 (General Exception), or Procedure Rule 16 (Special Urgency) apply.

## 13. The Forward Plan of Key Decisions

### Period of Forward Plan

13.1 Forward plans will be prepared by the **Leader** to cover a minimum period of one calendar month (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan.

### Content of Forward Plan

13.2 The Forward Plan will contain matters which the **Leader** has reason to believe will be subject of a **key decision** to be taken by the **Cabinet**, a **Cabinet member**, a committee of the Cabinet, officers or under joint arrangements in the course of the discharge of an **executive function** during the period covered by the plan. The Forward Plan must be published at least 28 clear days before the start of the period covered and made available to the Overview & Scrutiny Committee. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a. the matter in respect of which a decision is to be made;
- b. where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- c. the date on which, or the period within which, the decision will be taken;

- d. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e. the means by which any such consultation is proposed to be undertaken;
- f. the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- g. a list of the documents submitted to the decision taker for consideration in relation to the matter; and
- h. where the decision is to be taken in private the reasons for this and the process for making representations in accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

13.3 Exempt and confidential information (as defined in Procedure Rule 9) and the advice of political advisers will not be included in a forward plan but the Forward Plan should contain particulars of the matter.

#### **14. Procedure Before Taking Key Decisions**

14.1 Subject to Procedure Rule 15 (General Exception) and/or Procedure Rule 16 (Special Urgency), a key decision may not be taken unless:

- a. a notice (called here a Forward Plan) has been published in connection with the matter in question;
- b. at least 5 clear days have elapsed since the publication of the Forward Plan;
- c. where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Procedure Rule 4; and
- d. where a decision is to be taken at a meeting of the Cabinet or its Committees, and the Cabinet believes that the matter will be considered in private, at least 28 clear days' notice has been given in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

#### **15. General Exception**

15.1 If a matter which is likely to be a **key decision** has not been included in the Forward Plan, then subject to Procedure Rule 16 (Special Urgency), the decision may still be taken if:

- a. the decision must be taken by such a date that it is impracticable to defer the decision;



- b. the **Proper Officer** has informed the Chairman of a relevant Overview & Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- c. The **Proper Officer** has made copies of that notice available to the public at the offices of the Council; and
- d. at least 5 clear days have elapsed since the **Proper Officer** complied with paragraphs b and c).

15.2 Subject to Procedure Rule 10, where such a decision is taken collectively, it must be taken in public.

## **16. Special Urgency**

16.1 If by virtue of the date by which a decision must be taken Procedure Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview & Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent.

16.2 If there is no Chairman of a relevant Overview & Scrutiny Committee, or if the Chairman of the relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Vice Chairman will suffice.

16.3 As soon as reasonably practicable after agreement has been given the decision maker must make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice on the website.

## **Private Meetings**

16.4 Where the date by which a meeting must be held makes compliance with Rule 17 impracticable, the meeting may only be held where the decision-making body has obtained agreement from the Chairman of a relevant Overview & Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.

16.5 If there is no Chairman of a relevant Overview & Scrutiny Committee, or if the Chairman of each relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Vice Chairman will suffice.

16.6 As soon as reasonably practicable after the decision-making body has obtained agreement under the Procedure Rule to hold a private meeting the Democratic Services Manager shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the designated office and on the website.

## 17. Procedure Prior To Private Meetings

17.1 Subject to Procedure Rule 16, a **private meeting** may not take place unless:

17.1.1 At least 28 clear days before the scheduled meeting a notice (the Forward Plan) has been made available for inspection by the public at the designated office and on the website;

17.1.2 At least 5 clear days before the scheduled meeting a further notice has been made available for inspection by the public at the designated office and on the website which shall include any representations made as to why any item specified in the notice given under paragraph a) above should be open to the public together with the Council's response.

17.2 Private meetings are defined in the Glossary.

## 18. Reports to Council

### When the Overview & Scrutiny Committee can require a report

18.1 Where an **executive decision** has been made and was not treated as a **key decision** and the Overview & Scrutiny Committee thinks that it should have been treated as a **key decision** the Overview & Scrutiny Committee may require the **Cabinet** to submit a report to the Council within such reasonable time as the Overview & Scrutiny Committee specifies. The power to require a report rests with the Overview & Scrutiny Committee but is also delegated to the **Chief Executive** who shall require such a report on behalf of the Overview & Scrutiny Committee when so requested by the Chairman of the Overview & Scrutiny Committee or any 5 Councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview & Scrutiny Committee.

### The Cabinet's report to Full Council

18.2 The **Cabinet** will prepare a report for submission to the next available meeting of the **Full Council**. However, if the next meeting of the Full Council is within 7 days of receipt of the resolution of the Overview & Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Full Council will set out particulars of the decision, the individual or body making the decision, and if the **Leader** is of the opinion that it was not a **key decision**, the reasons for that opinion.

### Quarterly reports on special urgency decisions

18.3 In any event the Leader will submit quarterly reports to the **Full Council** on the **executive decisions** taken in the circumstances set out in Procedure Rule 16 (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **19. Record of Decisions**

- 19.1 After an **executive decision** is taken the **Proper Officer** or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as reasonably practicable and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The minutes of the meeting will be regarded as the record of these decisions.

## **20. Reporting of Meetings by the Press and Public**

- 20.1 Any member of the press or public attending a public meeting of the Council may now record the proceedings and report them to others. 'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A person attending the meeting may use any appropriate communication method, including the Internet, to publish or share the recorded material. This would include the use of social media.
- 20.2 Any person wishing to record a public meeting is not required to give the local authority prior notice although they are encouraged to do so in order that reasonable facilities can be provided.
- 20.3 No one is entitled to record or report the proceedings of a meeting if the meeting has moved into private session to consider confidential or exempt business. In such circumstances, the public and press would, as now, be required to leave the meeting and to deactivate and/or remove any recording or communications equipment.
- 20.4 Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.
- 20.5 Any person recording or reporting a meeting may not film any member of the public who remains in the public gallery.
- 20.6 Anyone wishing to record or report on meetings should be warned at the outset that the law of defamation will apply, as well as the law relating to public order offences. They should also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The Chairman or person presiding at the meeting would be expected to give this advice with the support of officers.

## 21. Decisions by Individual Cabinet Members or Officers

- 21.1 Where an individual **Cabinet member** or officer receives a report which he/she intends to take into account in making any **key decision**, the requirements of Procedure Rules 13 – 24 shall apply.
- 21.2 As soon as reasonably practicable after any **executive decision** has been made by an individual **Cabinet member** or a **key decision** has been taken by an officer, he/she will prepare, or instruct the **Proper Officer** to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Procedure Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of key decisions by officers. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

## 22. Overview & Scrutiny Committee Access to Documents

- 22.1 Members of the Overview & Scrutiny Committee are entitled to receive documents or any part of a document that contains exempt or confidential information where that information is relevant to an action or decision they are scrutinising or intend to scrutinise.

## 23. Additional Rights of Access for Councillors

- 23.1 Members of a committee or decision-making body of the Council or of the **executive** are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.

## 24. Rights of Councillors – “Need to Know”

- 24.1 In addition, Councillors will be entitled to access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the **Cabinet** (even though they are not a member of those bodies) where they can demonstrate a “need to know” in order to perform their duties as Councillors.
- 24.2 Subject to Procedure Rule 24.3 below, the circumstances where a “need to know” may be treated as arising will include:
- a. Where the matter relates to a sub-committee of a committee of which the Councillor is a member;
  - b. Where the matter relates to a committee of the **Cabinet** where the Councillor is a **Cabinet member**;
  - c. Where the matter is within the remit of the Audit or Overview & Scrutiny Committee of which the Councillor is a member;
  - d. Where the **Full Council** is required to approve the decisions or recommendations of committees, sub-committees or the Cabinet;

- e. Where the matter has been delegated to a committee or sub-committee, but significantly affects the reputation of the whole Council; and
  - f. Where the matter relates specifically to a Councillor's own ward; and
  - g. In relation to exempt material within a report on a decision that has been called in for consideration by Overview and Scrutiny Committee and a Councillor has signed a call-in notice and that Councillor has indicated that they wish to address the Overview and Scrutiny Committee as part of the call-in process.
- 24.3 There will not be a "need to know" if a Councillor is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.
- 24.4 A Councillor wishing to see confidential or exempt Council, committee, sub-committee or Cabinet documents or to attend the confidential part of a meeting should make written application to the **Monitoring Officer**, setting out the reasons and information in support of their claim to have a "need to know", and why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform his/her duties.
- 24.5 The determination as to whether or not a "need to know" has been demonstrated will be based on officer advice and will include legal advice.
- 24.6 Once a determination has been made, this will be communicated to the Councillor who has made the claim.

# **Part Three, Section C**

## **Budget and Policy Framework**

### **Standing Orders**

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## The Framework for Executive Decisions

1. The **Full Council** will be responsible for the adoption of the **Budget and Policy Framework**. Once a budget or a policy framework is in place, it will be the responsibility of the **Cabinet** to implement it.

## Process for developing the framework

2. The process by which the **Budget and Policy Framework** shall be developed is:
  - a. the **Cabinet** will publicise through the Forward Plan and other methods a timetable for making proposals to the **Full Council** for the adoption of any plan, strategy or budget that forms part of the **Budget and Policy Framework**, and its arrangements for consultation after publication of those initial proposals;
  - b. all Councillors, including the Chairmen of the Audit Committee and Overview & Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 4 weeks, unless the requirements of any statutory timetable/deadline make this impracticable; and
  - c. the Audit Committee and Overview & Scrutiny Committee have responsibility for fixing their own work programme, and will need to take into account the Forward Plan in doing so. As part of its consideration of the proposals it is open to the Audit Committee and Overview & Scrutiny Committee to consult, investigate, research or report in detail with policy recommendations. Once the Audit Committee and Overview & Scrutiny Committee have made recommendations, the draft proposals will be considered by the Council for decision at the earliest opportunity.

## Procedure for Conflict Resolution - Plans and Strategies

3. This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out in **Part 2** of this Constitution and to any plan/strategy for the control of the Council's borrowing and capital expenditure. Paragraphs 4 to below have been incorporated into these Codes as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
4. Where the **Cabinet** has submitted a draft plan or strategy to the **Full Council** for its consideration and, following consideration of that draft plan or strategy, the **Full Council** has any objections to it, the **Full Council** must take the action set out in paragraph 5.
5. Subject to 8 below, before the **Full Council**:
  - a. amends the draft plan or strategy;
  - b. approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or

not in the form of a draft) of which any part is required to be so submitted;  
or

- c. adopts (with or without modification) the plan or strategy,

it must inform the **Leader** of the Council of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the **Cabinet** to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

6. Where the **Full Council** gives instructions in accordance with paragraph 5, it must specify a period of at least five clear working days beginning on the day after the date on which the **Leader** of the Council receives the instructions on behalf of the **Cabinet** within which the Leader of the Council may:

- a. submit a revision of the draft plan or strategy as amended by the **Cabinet** (the “revised draft plan or strategy”) with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the **Full Council** for the Full Council’s consideration; or
- b. inform the **Full Council** of any disagreement that the **Cabinet** has with any of the Full Council’s objections and the Cabinet’s reasons for any such disagreement.

7. When the period specified by the **Full Council**, referred to in paragraph 6 has expired, the Full Council must, when:

- a. amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- b. approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- c. adopting (with or without modification) the plan or strategy;

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the **Cabinet’s** reasons for those amendments, any disagreement that the Cabinet has with any of the Full Council’s objections and the Cabinet’s reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

8. Where an amendment to a draft plan or strategy has been submitted under Council Standing Orders, the **Leader** may indicate on behalf of the **Cabinet** that s/he accepts the amendment. In these circumstances, the amendment will be regarded as incorporated in the draft strategy before **Full Council** and not (for the purposes of Standing Order 4 to 7 above) as an objection to it.



## Procedure for Conflict Resolution - Revenue Budget

9. This procedure applies to estimates and calculations relating to the revenue budget and Council Tax. Paragraphs 10 to 13 below have been incorporated into these Standing Orders as required by the Local Authorities (Standing Orders) (England) Regulations 2001. Those paragraphs do not apply to estimates and calculations submitted by the **Cabinet** to the **Full Council** where the estimates and calculations were drawn up by the Cabinet on or after 8th February in any financial year.
10. Where, in any financial year, the **Cabinet** submits to the **Full Council** for its consideration in relation to the following financial year:
  - a. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992;
  - b. estimates of other amounts to be used for the purposes of such a calculation; or
  - c. estimates of such a calculation,  
  
and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph 11.
11. Before the **Full Council** makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 10), it must inform the **Leader** of any objections which it has to the **Cabinet's** estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Full Council's requirements.
12. Where the **Full Council** gives instructions in accordance with paragraph 11, it must specify a period of at least five working days beginning on the day after the date on which the **Leader** receives the instructions on behalf of the **Cabinet** within which the Cabinet leader may:
  - a. submit a revision of the estimates or amounts as amended by the **Cabinet** ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the **Full Council** for the Full Council's consideration; or
  - b. inform the **Full Council** of any disagreement that the **Cabinet** has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
13. When the period specified by the **Full Council**, referred to in paragraph 11 has expired, the Full Council must, when making calculations (whether originally or by

way of substitute) in accordance with the sections referred to in paragraph 10) take into account:

- a. any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- b. the **Cabinet's** reasons for those amendments;
- c. any disagreements that the Cabinet has with any of the Full Council's objections, and
- d. the Cabinet's reasons for that disagreement,

which the **Leader** submitted to the Council, or informed the Council of, within the period specified.

14. Where estimates and calculations are drawn up by the **Cabinet** on or after 8th February in any financial year and are submitted to the **Full Council** for their consideration, the procedure in paragraphs 10 to 13 will not apply. In these circumstances the estimates and calculations will be submitted to the Overview & Scrutiny Committee, together with amendments submitted in accordance with Council Standing Orders. Where the Overview & Scrutiny Committee has any objection to the estimates and calculations, it will report such objections to the Full Council, the **Leader** and the appropriate **Cabinet member**. The Leader and/or the appropriate Cabinet member will report to the Full Council whether they agree or disagree with any objection of the Overview & Scrutiny Committee.

### **Decisions Outside the Budget or Policy Framework**

15. Subject to the provisions of Standing Orders 17 to 24, the **Cabinet**, committees of the Cabinet, individual **Cabinet members** and officers may only take decisions which are in line with the **Budget and Policy Framework**. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by **Full Council**, then that decision may only be taken by the Full Council.
16. If the **Cabinet**, committees of the Cabinet, individual **Cabinet members** and officers want to make such a decision, they shall take advice from the **Monitoring Officer** and/or the **Chief Finance Officer** as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing **Budget and Policy Framework**, then the decision must be referred by that body or person to the **Full Council** for decision.

### **Urgent Decisions Outside the Policy Framework**

17. The **Cabinet**, a committee of the Cabinet, an individual **Cabinet member** or an officer may take a decision which is contrary to the Council's policy framework if the decision is a matter of urgency. However, the decision may only be taken if:

- a. Either the **Chief Executive**, the **Chief Finance Officer** or the **Monitoring Officer** advise in writing that the legal or financial position of the Council or the interests of the Council and/or the residents of the District would be prejudiced if the matter were not determined before the next scheduled **Full Council** meeting, and
  - b. The Chairman of the Overview & Scrutiny Committee (or in their absence the Mayor of the Council or, in the absence of both, the Deputy Mayor of the Council) agrees that the decision is a matter of urgency.
18. The advice of the **Chief Executive**, **Chief Finance Officer** or **Monitoring Officer** and the consent of the Chairman of the Overview & Scrutiny Committee (or, if relevant, the Mayor of the Council or Deputy Mayor of the Council) to the decision being taken as a matter of urgency must be noted on the record of the decision.
  19. Following the decision, the decision taker will provide a full report to the next available **Full Council** meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **Virement and In-Year Changes to the Budget**

20. Steps taken by the **Cabinet**, a committee of the Cabinet, an individual **Cabinet member** or an officer to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to paragraphs 21 to 23 below.
21. Such bodies or individuals shall be entitled to vire across budget headings as follows:

#### **21.1 Capital**

- (a) a **Chief Officer** may vire capital up to £25,000 across budget headings (or, up to £100,000 with the approval of the **Chief Finance Officer**, in consultation with the Cabinet member for Finance);
- (b) the **Cabinet** may vire capital up to £100,000 across budget headings or up to £250,000 from a revenue budget heading (including unallocated contingency) to capital with the approval of the **Chief Finance Officer**; and
- (c) any individual or cumulative capital **virement** above £250,000 shall require the approval of **Full Council**.

#### **21.2 Revenue**

- (a) a Chief Officer may vire revenue up to £50,000 across budget headings with the approval of the **Chief Finance Officer**;
- (b) the Cabinet may vire revenue up to £100,000 across budget headings with the approval of the **Chief Finance Officer**; and

- (c) any individual or cumulative revenue **virement** above £100,000 shall require the approval of **Full Council**.

22. The **Cabinet** may:

22.1 increase capital or revenue expenditure in-year by use of reserves (in addition to the use of reserves planned in the budget calculations), provided that such use of reserves do not exceed £1,000,000 in aggregate in a financial year and provided that the **Chief Finance Officer** has certified in writing that such use of reserves would not cause the Council's overall reserves to fall below a prudent level. Any such use of reserves shall be reported to the next meeting of Full Council; and

22.2 increase the capital budget provided that additional expenditure can be funded through:

- a. additional external resources;
- b. additional capital receipts; and
- c. additional credit approvals.

23. The **Chief Executive** may exercise any of the powers of the **Cabinet** under 21 and 22, in consultation with the **Leader**, the **Cabinet member** for Finance and the **Chief Finance Officer** where the legal or financial position of the Council or the interests of the residents of District would be prejudiced if the matter were not determined before the next scheduled Cabinet meeting. The Chief Executive will report any such decision to the Chairman of Overview & Scrutiny and the next meeting of the Cabinet.

### **In-year Changes to Policy Framework**

24. The responsibility for agreeing the policy framework lies with the **Full Council**, and decisions by the **Cabinet**, a committee of the Cabinet, an individual **Cabinet member** or an officer must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes which are necessary to ensure compliance with the law, ministerial direction or government guidance, or where the existing policy document is silent on the matter under consideration.

### **Call-in of Decisions Outside the Budget or Policy Framework**

25. Where the Overview & Scrutiny Committee is of the opinion that a **Cabinet** decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the **Monitoring Officer** and/or **Chief Finance Officer**.

26. In respect of functions which are the responsibility of the **Cabinet**, the **Monitoring Officer's** report and/or **Chief Finance Officer's** report shall be to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated or

not, the Cabinet must consider the report of the relevant officer and decide what action to take in respect of the report. Where the advice concluded that there was a departure from the Budget or Policy Framework, the Cabinet must report to **Full Council** on the action it intends taking. Where there was no such departure, the Cabinet must report to the Overview & Scrutiny Committee on any action to be taken.

27. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the **Monitoring Officer** and/or the **Chief Finance Officer** is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview & Scrutiny Committee may refer the matter to **Full Council**. In such cases, no further action will be taken in respect of the decision or its implementation until Full Council has met and considered the matter. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Full Council may either:
- a. endorse a decision or proposal of the Cabinet decision taker as falling within the existing **Budget and Policy Framework**. In this case no further action is required, save that the decision of the Full Council be minuted and circulated to all Councillors in the normal way;
  - b. amend the Council's **Financial Procedure Rules** or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Full Council be minuted and circulated to all Councillors in the normal way; or
  - c. where the Full Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Finance Officer.

# **Part Three, Section D**

## **Cabinet (Executive) Standing Orders**

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# How the Executive Operates

## 1. Who May Make Executive Decisions

The **Leader** may discharge any **executive functions** of the Council or he/she may provide for any executive functions to be discharged by:

- a. the **Cabinet** as a whole;
- b. a committee of the Cabinet;
- c. an individual **Cabinet member**;
- d. an officer of the authority;
- e. an area committee;
- f. Joint Arrangements; or
- g. another local authority.

## 2. Appointments and Delegation by the Leader

2.1 at the Annual Meeting of the **Full Council**, the **Leader** will present the names of the Councillors appointed to the **Cabinet** by the Leader (including the Cabinet member who is appointed as the Deputy Leader) and their **portfolios**.

2.2 either at the Annual Meeting of the **Full Council** or as soon as practicable thereafter, the **Leader** will present to the **Monitoring Officer** a written record of:

- a. the detailed remits of the **portfolios** of the **Cabinet members**;
- b. any delegations made by the **Leader** in respect of the discharge of the Council's **executive functions**. The document presented by the Leader to the **Monitoring Officer** will contain the following information about the discharge of the Council's **executive functions** in relation to the coming year:
  - (i) the extent of authority of the **Cabinet** as a whole;
  - (ii) the extent of any authority delegated to individual **Cabinet members**, including details of any limitation on their authority;
  - (iii) the terms of reference and constitution of such committees of the **Cabinet** as the **Leader** appoints and the names of **Cabinet members** appointed to them;

- (iv) the nature and extent of any delegation of **executive functions** to any other authority or any Joint Arrangements and the names of those **Cabinet members** appointed to any **Joint Committee** for the coming year; and
- (v) the nature and extent of any delegation of **executive functions** to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 3. Sub-delegation of Cabinet Functions

- 3.1 where the **Leader** delegates an **executive function** to the **Cabinet** then unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the Cabinet or to a Council officer;
- 3.2 where the **Leader** delegates an **executive function** to a committee of the **Cabinet** or an individual **Cabinet member** then unless the Leader directs otherwise, a committee of the Cabinet or an individual member of the Cabinet may delegate further to a Council officer;
- 3.3 even where **executive functions** have been delegated under 3.1 or 3.2 above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation; and
- 3.4 where the **Leader** seeks to withdraw a delegation from a committee of the **Cabinet**, notice will be deemed to be service on that committee of the Cabinet when the Leader has served it on its Chairman.

### 4. The Scheme of Delegation and Executive Functions

The **Leader** may amend the **Officer Scheme of Delegation** set out in **Part 2** of this Constitution insofar as it relates to **executive functions** at any time during the year in accordance with the procedure set out below:

- 4.1 Where the **Leader** wishes to delegate the discharge of an **executive function** that has not been previously delegated, the Leader must give written notice of the new delegation to both the person or body to whom the executive function is to be delegated and the **Monitoring Officer**.

The delegation of the executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

- 4.2 Where the **Leader** wishes to transfer the discharge of an **executive function** that has been previously delegated the Leader must give written notice to the person or body from whom the exercise of the function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the **Monitoring Officer**.



The transfer of the delegation of the executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

- 4.3 Where the **Leader** wishes to withdraw the delegation of an **executive function** that has been delegated and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the **Monitoring Officer**.

The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

- 4.5 The **Monitoring Officer** will ensure that the Constitution is updated accordingly where the delegation is to extend beyond six months and will report the new delegation to **Full Council** at the earliest opportunity.

## 5. Place and Time of Cabinet Meetings

The **Cabinet** will meet in accordance with the agreed published [Calendar of Meetings](#). Arrangements for an additional extraordinary meeting required in light of circumstances will be agreed by the **Leader** with the Democratic Services Team Leader. The Cabinet shall meet in the Council Chamber at Council Offices, Penns Place or another location to be agreed by the Leader with the Democratic Services Team Leader.

## 6. Public or Private Meetings of the Cabinet

The **Cabinet** will meet in public, subject to the consideration of exempt or confidential information as provided for in the Access to Information Standing Orders.

## 7. Quorum

The quorum for a meeting of the **Cabinet** shall be three. The quorum for a committee of the Cabinet shall be three.

## 8. How are Decisions to be Taken by the Executive

The **Executive** will take decisions in accordance with the Access to Information Standing Orders.

## 9. The Conduct of Cabinet Meetings

### 9.1 Chairman of Meeting

If the **Leader** is present, he/she will chair the meeting. In his/her absence, the Deputy Leader will chair the meeting. In the absence of both, another **Cabinet member** appointed to do so by those Cabinet members present will chair the meeting.

## 9.2 Attendance Rights

All **Cabinet members** shall be entitled to attend meetings of the **Cabinet** unless the Cabinet determine otherwise. Attendance by other Councillors or the public shall be in accordance with the Access to Information Standing Orders, by invitation, or as set out in Standing Order 9.3 below.

The **Chief Executive**, the **Chief Finance Officer** and the **Monitoring Officer**, and their nominees, are entitled to attend any meeting of the Cabinet where a decision is to be made.

## 9.3 Speaking Rights

9.3.1 The Chairman and spokesperson(s) of the Council's Overview & Scrutiny Committee shall be entitled, at any formal public meeting of the **Cabinet**, to speak on any matter on the agenda for that meeting.

9.3.2 Other **Councillors** not previously described above may also speak at such meetings with the permission of the **Leader** or person presiding in his/her absence.

9.3.3 At every formal public meeting of the **Cabinet** there shall be a period of 20 minutes for questions to be put to **Cabinet members** by **Councillors**. Notice of these questions is not required in advance of the meeting. The following rules shall apply:

- (a) questions must relate to the powers, duties or responsibilities of the Cabinet.
- (b) questions put to Cabinet members must relate to their **portfolio** responsibilities.
- (c) the **Leader** will determine how Cabinet question time should be allocated where there are a number of Councillors wishing to ask questions.
- (d) questions will be brief, clear and focussed.
- (e) questions which the Leader deems to be:
  - (i) inappropriate, frivolous, derogatory or vexatious; or
  - (ii) related to a Council employment or staffing matter or defamatory.

will not be allowed.

- 9.3.4 Questions will not be allowed which repeat, or which are substantially the same as questions asked at a meeting of **Full Council** or **Cabinet** within the preceding 6 months.
- 9.3.5 Where any question might be disallowed under the agreed provisions, the **Leader**, as chairman of the **Cabinet**, will have absolute discretion to determine whether to do so.
- 68.3.6 Questions will be asked and answered without discussion. In replying, the **Cabinet member** responding will use their reasonable endeavours to address the matters raised in the question. The Cabinet member responding may reasonably decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer.
- 9.3.7 Following each answer, the **Leader** may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.
- 9.3.8 Where a question relates to a matter which appears on the agenda of the **Cabinet** meeting in question, the **Leader** may allow the question to be asked at the beginning of consideration of that item.
- 9.3.9 The **Cabinet** may invite any person to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the **Monitoring Officer** so as to ensure that the Council's obligations under the Local Government Acts in respect of Access to Information and Data Protection are observed.

#### **9.4 Business to be Conducted**

At each meeting of the **Cabinet** the following business will be conducted:

- a. consideration of the minutes of the last meeting;
- b. declarations of interest, if any;
- c. matters referred to the **Cabinet** (whether by the Overview & Scrutiny Committee or by the **Full Council**) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview & Scrutiny Standing Orders or the **Budget and Policy Framework** Standing Orders;
- d. consideration of any reports from the Overview & Scrutiny Committee;
- e. matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not; and

## 10. Integrity of Decision Making

In taking decisions, the **Cabinet** must satisfy itself that it has before it adequate and appropriate advice and the Cabinet shall take that advice into consideration in determining the matter. The advice shall be from the relevant service, the **Monitoring Officer** and the **Chief Finance Officer** who shall, where appropriate, be present at any meeting where a decision is being taken. Where there is any doubt about the legal basis for the decision, the procedure to be followed or the probity of the matter then advice must be obtained from the **Monitoring Officer** and the **Chief Finance Officer**.

## 11. Consultation

All reports to the **Cabinet** from any **Cabinet member** or an officer on proposals relating to the **Budget and Policy Framework** must contain details of the nature and extent of consultation with stakeholders (if any) and the Overview & Scrutiny Committee, and the outcome of that consultation.

## 12. Rights to Place Items on the Cabinet Agenda

- 12.1 The **Leader** will decide upon the schedule for the meetings of the **Cabinet**. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The **Chief Executive** will comply with the Leader's requests in this respect.
- 12.2 Any **Cabinet member** may require the **Chief Executive** to make sure that an item is placed on the agenda of the next available meeting of the **Cabinet** for consideration. If he/she receives such a request the Chief Executive will comply.
- 12.3 There will be a standing item on the agenda of each meeting of the **Cabinet** for matters referred by the **Full Council** or the Overview & Scrutiny Committee for reconsideration and for reports of Overview & Scrutiny Committee.
- 12.4 The **Monitoring Officer** and/or the **Chief Finance Officer** may include an item for consideration on the agenda of a **Cabinet** meeting and may require the **Chief Executive** to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the **Head of Paid Service**, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

- 12.5 The Agenda may be supported by additional papers prepared by officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information. Full agendas for meetings of the **Cabinet** will be made available, electronically, in advance of the respective meeting, to all Councillors and in accordance with the Council's current policy and the Access to Information Standing Orders.

# Part Three, Section E

## Overview & Scrutiny Standing Orders

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- SO 69. Establishment and Membership
- SO 70. Terms of Reference
- SO 71. Meetings of the Overview & Scrutiny Committee
- SO 72. Quorum
- SO 73. Work Programme
- SO 74. Agenda for Overview & Scrutiny Committee
- SO 75. Reports and Recommendations of the Overview & Scrutiny Committee
- SO 76. Reports and Recommendations – Partner Authorities
- SO 77. Publication of Reports, Recommendations and Responses
- SO 78. Rights of Overview & Scrutiny Committee Members to Documents
- SO 79. Rights of Cabinet Members
- SO 80. Councillors and Officers Giving Account
- SO 81. Attendance by Others
- SO 82. Call-in
- SO 83. Call-in and Urgency
- SO 84. Procedure at Overview & Scrutiny Committee Meetings

## **SO 69. Establishment and Membership**

The Council will establish the Overview & Scrutiny Committee set out in **Part 2** of this Constitution.

## **SO 70. Terms of Reference**

The general and specific role of the Overview & Scrutiny Committee will be as set out in **Part 2** of this Constitution.

## **SO 71. Meetings of the Overview & Scrutiny Committee**

There shall be at least four ordinary meetings of the Overview & Scrutiny Committee every civic year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary Overview & Scrutiny Committee meeting shall be called by the **Chief Executive** at the request of the Chairman of the Overview & Scrutiny Committee, by any four members of the Committee or the **Monitoring Officer**. Where the Chief Executive declines to call an extraordinary meeting they shall give reasons for doing so.

## **SO 72. Quorum**

The quorum for the Overview & Scrutiny Committee shall be in accordance with SO 15.

## **SO 73. Work Programme**

- 73.1 The Overview & Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account the wishes of members on the Committee who are not members of the largest political group on the **Full Council**.
- 73.2 The Overview & Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the **Full Council** and the **Cabinet** to review particular areas of Council activity. Where it does, the Overview & Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Full Council. The Full Council and/or the Cabinet shall consider the report of the Overview & Scrutiny Committee at the next available meeting.

## **SO 74. Agenda for the Overview & Scrutiny Committee**

- 74.1 Any member of the Overview & Scrutiny Committee shall be entitled to require, in writing, that an item be included on the agenda, provided that the item is within the remit of the Committee in question; the item will then appear on the agenda for the next meeting. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 74.2 Similarly, the **Leader** of the Council or a **Cabinet member** with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of an Overview & Scrutiny Committee, relating to their area of

responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

- 74.3 Subject to the Council and Committee Standing Orders, any other Councillor may give notice in writing to the **Monitoring Officer**, requesting an item to appear on an agenda of an Overview & Scrutiny Committee. The item shall be included after consulting the Chairman of the Committee.
- 74.4 On receipt of a notice under Standing Order 74.1, 74.2 or 74.3, the matter will be included on the agenda for, and discussed at, a meeting of the Committee. Notices under Standing Order 74.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.
- 74.5 In considering whether or not to exercise any of its powers in relation to the matter referred under Standing Order 74.3 the Committee may have regard to any representations made by the Councillor as to why it would be appropriate to exercise any of its powers. If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Councillor of the decision and the reasons for it.
- 74.6 Where the Overview & Scrutiny Committee exercises its power to make a report or recommendation to the **Full Council** or the **Cabinet** on any matter referred to it by a Councillor under Standing Order 74.3 the Committee must provide the Councillor with a copy of the report or recommendation (subject to Standing Order 78).

### **Policy Review and Budget Development**

- 74.7 The Overview & Scrutiny Committee has a key role in budget development. The **Budget and Policy Framework** Standing Orders contains details of the process by which the Overview & Scrutiny Committee may perform that role.
- 74.8 In relation to the development of the Council's approach to other matters not forming part of its **Budget and Policy Framework**, the Overview & Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 74.9 Overview & Scrutiny Committees may hold enquiries in relation to policy review and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

### **SO 75. Reports and Recommendations of the Overview & Scrutiny Committee**

- 75.1 This order applies where the Overview & Scrutiny Committee makes a report or recommendation to the **Full Council** or the **Cabinet**, except in relation to a crime and disorder matter.



- 75.2 The Overview & Scrutiny Committee may publish the report or recommendations.
- 75.3 The Overview & Scrutiny Committee must by notice in writing require the Full Council or Cabinet:
- 75.3.1 to consider the report or recommendation;
  - 75.3.2 to respond to the committee indicating what (if any) action the Full Council or Cabinet proposes to take;
  - 75.3.3 if the Committee has published the report or recommendation to publish the response;
  - 75.3.4 if the Committee provided a copy of the report or recommendation to a member under Standing Order 74.6, to provide the member with the response; and
  - 75.3.5 to do all of the above within two months of receiving the report or recommendations or (if later) the notice.
- 75.4 It is the duty of the **Full Council** or **Cabinet** to which a notice is given under Standing Order 75.3 to comply with the requirements specified in the notice.

#### **SO 76. Reports and Recommendations – Partner Authorities**

- 76.1 This order applies where the Overview & Scrutiny Committee makes a report or recommendation to the **Full Council** or the **Cabinet**, and the report or any of the recommendations relates to a local improvement target which relates to a relevant partner authority.
- 76.2 The Overview & Scrutiny Committee may by notice in writing to the relevant partner authority (accompanied by the report/recommendations) require that authority to have regard to the report or recommendation in question in exercising their functions.
- 76.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

#### **SO 77. Publication of reports, Recommendations and Responses**

- 77.1 Where a report or recommendation of the Overview & Scrutiny Committee or response of the **Full Council** or the **Cabinet** is published pursuant to Standing Order 75.2 or 75.3c), and is provided to a Councillor or partner authority under Standing Orders 74.6 or 76, any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of the Access to Information Standing Orders.

#### **SO 78. Rights of the Overview & Scrutiny Committee Members to Documents**

- 78.1 In addition to their rights as Councillors, members of Overview & Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Standing Orders in **Part 3** Section F of this Constitution.
- 78.2 Nothing in this paragraph prevents more detailed liaison between the **Cabinet** and the Overview & Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **SO 79 Rights of Cabinet Members**

- 79.1 Subject to the provisions of the Access to Information Standing Orders and without prejudice to the rights of **Cabinet members**, Cabinet members may attend meetings of the Overview & Scrutiny Committee including parts of the meeting where exempt items are being discussed and shall be entitled to receive the agenda for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the Committee.

### **SO 80. Councillors and Officers Giving Account**

- 80.1 The Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any **executive function**. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any **Cabinet member**, the **Chief Executive** and/or any **chief officer** to attend before it to explain in relation to matters within their remit:

80.1.1 any particular decision or series of decisions;

80.1.2 the extent to which the actions taken implement Council policy; and/or

80.1.3 their performance,

and it is the duty of those persons to attend if so required.

- 80.2 Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then Overview & Scrutiny Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.

### **SO 81. Attendance by Others**

- 81.1 The Overview & Scrutiny Committee may invite people other than those people referred to in Standing Order 80 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

### **SO 82. Call-in**

- 82.1 When a decision is made by the **Cabinet**, an individual **Cabinet member** or a committee of the Cabinet, or a **key decision** is made by an officer with delegated

authority from the **Executive**, or under Joint Arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Council Offices, Penns Place normally within two days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- 82.2 The record of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, as from 4.00pm on the fifth day after the day on which the decision was published, unless within this time it is called in for scrutiny (“the call-in period”).
- 82.3 Subject to 82.5 below, a decision may be called-in for scrutiny by the Overview & Scrutiny Committee if the Chairman of the Overview & Scrutiny Committee or any five **Councillors** submit a notice in writing to the **Chief Executive** within the call-in period giving reasons why the decision should be scrutinised.
- 82.4 The **Chief Executive** shall then notify the decision-taker of the call-in. Any item which is called-in will be placed on the agenda for the next meeting of the Overview & Scrutiny Committee. The relevant **chief officer** and/or **Cabinet member** shall have the right to attend the meeting to explain the reasons for the decision and to respond to comments made at the meeting.
- 82.5 A decision may not be called-in if the Committee has already made recommendations to the decision-taker and those recommendations have been accepted by the decision-taker either in whole or without significant addition or modification.
- 82.6 Where a decision has been called-in by five Councillors and none of those Councillors attend, the Committee may, at its discretion, determine not to scrutinise the decision.
- 82.7 If, having considered the decision, (which consideration must be completed before the next scheduled meeting of the **Cabinet**) the Overview & Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to **Full Council**. Matters should normally only be referred to **Full Council** if Overview & Scrutiny Committee consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.
- 82.8 If the decision is referred back to the decision maker they shall then reconsider the decision. The decision maker may amend the decision or not, before adopting a final decision which will come into force immediately.
- 82.9 If following an objection to the decision, the Overview & Scrutiny Committee does not either refer the matter back to the decision making person or body or refer the matter to Full Council or determines under 82.6 above not to scrutinise the matter, the decision shall take effect on the date of the Scrutiny meeting.

- 82.10 If the matter was referred to **Full Council** and the Full Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Full Council does object, it has no power to make decisions in respect of **executive functions** unless the decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the **Full Council** will refer any decision to which it objects back to the decision making person or body, together with the Full Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 82.11 If the **Full Council** does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Full Council meeting.

### **SO 83. Call-in and Urgency**

- 83.1 The call-in procedure set out above shall not apply where the decision being taken by the **Executive** is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the legal or financial position of the Council or the interests of the residents of the Borough of Havant. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body (having considered the advice of the **Chief Executive** and/or the **Monitoring Officer** and/or the **Chief Finance Officer**), the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview & Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.
- 83.2 In the absence of the Chairman of the Overview & Scrutiny Committee, the Mayor of the Council's consent shall be required. In the absence of both, the **Chief Executive** or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the **Full Council**, together with the reasons for urgency.
- 83.4 The operation of the provisions relating to call-in and urgency shall be monitored annually by the **Chief Executive**, and a report submitted to **Full Council** with proposals for review if necessary.
- 83.5 Where a decision is exempted from call-in, it will become effective immediately or (if later) as soon as the agreement of the Chairman of the Overview & Scrutiny Committee (or the Mayor of the Council or the **Chief Executive**, if appropriate) has been obtained.

### **SO 84. Procedure at Overview & Scrutiny Committee Meetings**

- 84.1 The Overview & Scrutiny Committee shall consider the following business:
- 84.1.1 minutes of the last meeting;

- 84.1.2 declarations of interest (including whipping declarations);
  - 84.1.3 consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - 84.1.4 responses of the Cabinet to reports of the Overview & Scrutiny Committee; and
  - 84.1.5 the business otherwise set out on the agenda for the meeting.
- 84.2 Where the Overview & Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- 84.2.1 that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - 84.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - 84.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 84.3 Following any investigation or review, the Committee shall prepare a report, for submission to the **Cabinet** and/or **Full Council** as appropriate and shall make its report and findings public.

# **Part Three, Section F Officer Employment Procedure Rules**

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## **Recruitment and Appointment**

### **1. Declarations**

- 1.1 Any candidate for any designation or appointment with the Council who knows that he/she is related to a Councillor or employee of the Council shall, when making an application, disclose, in writing, that relationship to the Chief HR Officer. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 1.2 Every Councillor and employee of the Council shall disclose to the Chief HR Officer any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Council.

### **2. Seeking support for appointment**

- 2.2 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.
  - 2.3 Persons shall be deemed to be related to a candidate or officer if they are a spouse, civil partner, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, step-parent stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons. This list is indicative, and a judgement will be made based on the closeness of the relationship.
  - 2.4 In the case of a dispute under Procedure Rule 1.3 above about the status of a relationship in relation to an appointment, the Chief HR Officer will rule and such ruling will be applied.
  - 2.5 The Chief HR Officer will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.
  - 2.6 No candidate so related to a Councillor or senior officer will be appointed without the authority of the relevant Executive Head of Service or an officer nominated by him/her.
- ### **3. Recruitment of Head of Paid Services and members of Executive Leadership Team**
- 3.1 Where the Council proposes to appoint the **Head of Paid Service** or a member of the Executive Leadership Team (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing

officers, the Human Resources Committee will establish a committee (or sub-committee) to act as the appointment panel.

3.2 The appointment panel will:

- a. draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed;
- b. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c. make arrangements for a copy of the statement mentioned in paragraph a) to be sent to any person on request.

3.3 The appointment panel will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list.

3.4 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.

3.5 Where the Council proposes to appoint the **Head of the Paid Service** or a member of the Executive Leadership Team (other than on an acting basis) exclusively from amongst their existing officers the Human Resources Committee will establish a committee (or sub-committee)] which will make arrangements in connection with the appointment.

#### **4. Appointment of Head of Paid Service**

4.1 Where the Council proposes to appoint to the **Head of the Paid Service**, the Human Resources Committee will oversee the arrangements for filling the vacancy. For this purpose, the Committee shall include at least one **Cabinet member**.

4.2 The **Full Council** will approve the appointment of the **Head of Paid Service** following the recommendation of the Human Resources Committee, and the Full Council must approve the appointment before an offer of appointment is made.

4.3 Where the **Full Council** does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

#### **5. Dismissal of Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer)**

5.1 Dismissal of the **Designated Statutory Officers** of the Council (the **Head of Paid Service**, the **Monitoring Officer** and the **Chief Finance Officer (S.151 Officer)** (the 'DSOs') will be dealt with in accordance with the Council's agreed policy. The requirements of the Local Authorities (Standing Orders) (England) Regulations



2001 (as amended) and the Model Disciplinary Procedure and Guidance as set out in the JNC Conditions of Service Handbook have been followed in this regard.

- 5.2 The dismissal of a DSO must be approved by the **Full Council**, following the recommendation of such dismissal by the Human Resources Committee. The Committee when making such a recommendation must include at least one member of the Cabinet. The **Full Council** must approve the dismissal before notice of dismissal is given.

## **6. Appointment and Dismissal of Chief Officers**

- 6.1 The appointment of a **chief officer** will be determined by the Human Resources Committee. When making the appointment, the Committee must include at least one **Cabinet member**.
- 6.2 Subject to Procedure Rule 5.2, the dismissal of a **chief officer** is the responsibility of the Human Resources Committee. The Committee when dismissing a chief officer must include at least one **Cabinet member**.

## **7. Other Officers**

- 7.1 The function of appointment and dismissal of, and taking disciplinary action against any officer other than the **Head of Paid Service** or a **chief officer** is the responsibility of the Head of Paid Service (Chief Executive) or his/her nominee, and, (save in respect of deputy chief officers as defined in Section 2(8) of the Local Government and Housing Act 1989), may not be discharged by Councillors. This is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001.
- 7.2 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.
- 7.3 Nothing in Procedure Rule 7.2 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by an officer against any decision relating to the dismissal of, or taking disciplinary action against that officer.

## **8. Consultation with Cabinet Members**

- 8.1 No offer of an appointment or notice of dismissal in relation to the **Head of Paid Service**, a **chief officer** or a **deputy chief officer** (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall be given by the appointor or dismissor until:
- 8.1.1 the appointor or dismissor has notified the Chief HR Officer of the name of the person to be appointed or dismissed and any other particulars relevant to the appointment or dismissal;
- 8.1.2 the Chief HR Officer has notified each member of the Cabinet of:

- a. the name of the person to be appointed or dismissed;
- b. any other particulars relevant to the appointment or dismissal which the appointor or dismissor has notified to the Head of Organisational Development; and
- c. the period within which any objection to the making of the offer is to be made by the **Leader** on behalf of the **Cabinet** to the Chief HR Officer and

8.1.3 either:

- a. the **Leader** has, within the period specified in the notice under paragraph (b)(iii) above notified the Committee that neither s/he nor any other member of the **Cabinet** has any objection to the appointment or dismissal;
- b. the Chief HR Officer has notified the appointor or dismissor that no objection was received within that period from the **Leader**; or
- c. the appointor or dismissor is satisfied that any objection received from the **Leader** within that period is not material or is not well-founded.

## 9. **Disciplinary Action - Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer)**

- 9.1 A Designated **Statutory Officer** of the Council (the **Head of Paid Service**, the **Monitoring Officer** and the **Chief Finance Officer (S.151 Officer)**) (a 'DSOs') may not be dismissed by the Council unless the procedure set out in this Procedure Rule 9 are complied with.
- 9.2 The Council must invite relevant independent persons to be considered for appointment to an **Independent Persons Panel**, with a view to appointing at least two such persons to the Panel.
- 9.3 In Procedure Rule 9.2 "relevant independent persons" means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 9.4 Subject to Procedure Rule 9.5, the Council must appoint to the **Independent Persons Panel** such relevant independent persons who have accepted an invitation issued in accordance with Procedure Rule 9.2 in accordance with the following priority order:
  - a. a relevant independent person who has been appointed by the Council and who is a local government elector;
  - b. any other relevant independent person who has been appointed by the Council;

- c. a relevant independent person who has been appointed by another authority or authorities
- 9.5 The Council is not required to appoint more than two relevant independent persons in accordance with Procedure Rule 9.4 but may do so.
- 9.6 The Council must appoint any **Independent Persons Panel** at least 20 working days before the relevant meeting.
- 9.7 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the **Full Council** must take into account, in particular:
  - a. any advice, views or recommendations of the **Independent Persons Panel**
  - b. the conclusions of any investigation into the proposed dismissal; and
  - c. any representations from the relevant officer.
- 9.8 Any remuneration allowances or fees paid by the Council to an independent person appointed to the **Independent Persons Panel** must not exceed the level of remuneration, allowance or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.

## **10. Disciplinary Action - Head of Paid Service and Chief Officers**

- 10.1 Subject to Procedure Rule 9 above, the Human Resources Committee has delegated authority to take disciplinary action against the **Head of Paid Service** and **chief officers**, and to dismiss chief officers on disciplinary grounds
  - a. Any proposal to dismiss the **Head of Paid Service**, the **Monitoring Officer** or the **Chief Finance Officer** must be approved by **Full Council**.
  - b. Where the Human Resources Committee meets to consider the taking of disciplinary action against the **Head of Paid Service** or a **chief officer**, the Committee must include at least one member of the Cabinet.
  - c. The **Investigation and Disciplinary Committee** for the purposes of the JNC Conditions of Service shall be drawn from the Human Resources Committee. That Committee must include at least one member of the Cabinet.
  - d. In accordance with the Model Disciplinary Procedure in the JNC Handbook for Chief Executives, **Investigation and Disciplinary Committee** meetings shall be convened by the **Monitoring Officer** (in consultation with the Chair of the Human Resources Committee) and the Monitoring Officer shall, in consultation with the Chair of the Human Resources Committee, filter out and deal with allegations that are clearly unfounded, trivial or can best be dealt with under some other procedure. Where allegations involve the **Monitoring Officer**, this role shall be fulfilled by the Chief Executive.

**11. No Directions to be Given to Persons Making Appointments or Taking Disciplinary Action**

Save as specifically provided for elsewhere in these Standing Orders, neither the **Full Council** nor the **Cabinet** or its Committees or Overview and Scrutiny meeting or an individual Councillor, nor any other person shall directly or indirectly:

- a. give directions to any person taking any step in relation to an appointment to a post in the paid service of the Council as to the identity of the person to be appointed;
- b. give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or
- c. otherwise interfere with the making of such an appointment or the taking of disciplinary action.

# **Part Three, Section G**

## **Financial Procedure Rules**

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## 1. INTRODUCTION

- 1.1 Financial procedures provide the framework for managing the Council's financial affairs. They apply to every Councillor and officer of the Council and anyone acting on its behalf. Robust systems and procedures are essential to an effective framework of accountability and control.
- 1.2 These procedures identify the financial responsibilities of **Full Council**, **Cabinet** and **Councillors**, the **Chief Executive** as **Head of Paid Service**, the **Monitoring Officer**, the **Chief Finance Officer**, the Executive Heads, Heads of Service and other employees.
- 1.3 All Councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.4 The **Chief Finance Officer** is responsible for maintaining a continuous review of the financial procedures and submitting any additions or changes necessary to **Full Council** for approval.
- 1.5 The **Head of Paid Service** and Executive Heads are responsible for ensuring that all officers in their service areas are aware of the existence and content of these **Financial Procedure Rules** and other internal regulatory documents and that they comply with them.
- 1.6 Failure of officers to comply with these procedures may constitute misconduct or gross misconduct, depending on the circumstances of the case in question, and may result in disciplinary action being taken in accordance with the Council's Disciplinary Procedure.
- 1.7 All Council employees must seek to achieve value of money and shall give appropriate consideration to:
  - a. Economy – acquiring resources of appropriate quality for the minimum cost;
  - b. Efficiency – ensuring that the maximum output is obtained from the resources devoted to an activity;
  - c. Effectiveness – ensuring that the output from any activity is achieving the desired result or target set; and
  - d. Council Strategy – How each activity contributes to corporate objectives and how performance can be compared objectively and by the more subjective views of the local community.
- 1.8 The **Chief Finance Officer** has overall responsibility to ensure the proper administration of the Council's financial affairs, as the responsible financial officer under section 151 of the Local Government Act 1972. The **Chief Finance Officer** may delegate responsibilities to the Deputy **S151 Officer** where appropriate.

## 2. RESPONSIBILITIES FOR FINANCIAL MANAGEMENT

### Introduction

Financial management covers all financial accountabilities in relation to the running of the Council. The overall roles and responsibilities for the **Cabinet, Full Council, Audit Committee** and statutory officers are outlined in **Part 2** of the Constitution.

### 2.1 Financial Responsibilities of the Full Council

**Full Council** is responsible for:

- a. Approving the Council's expenditure plans, including Medium Term Financial Strategy, Revenue Budget, Capital, Council Tax and Reserves annually;
- b. Approving the Council's **Treasury Management** Strategy and Investment Strategy annually including the Prudential Indicators;
- c. Approving the Council's **non-executive** Fees & Charges annually;
- d. Movement of budget (virement) between services over £250,000 capital and £100,000 revenue; and
- e. Ensuring financial accountability through ownership of these Financial Regulations.

### 2.2 Financial Responsibilities of the Cabinet

**The Cabinet** is responsible for:

- a. Proposing the policy framework and budget to **Full Council**;
- b. Authorising release of capital funds on the basis of detailed project plans;
- c. Approving the Council's **executive** Fees & Charges annually;
- d. Movement of budget (virement) between services between £100,000 (revenue and capital) and £250,000 (revenue to capital);
- e. Agreeing expenditure outside of the budget framework up to the sum of £2M in any one financial year; or when additional expenditure can be funded through:
  - i. Additional external resources;
  - ii. Additional capital resources; or
  - iii. Additional credit approvals.
- f. Receiving forecast reports and an outturn report;

- g. Approving the use of underspends post year end;
- h. Approving the use of the General Fund balance; and
- i. Approving delegations, including financial frameworks, for partnerships.

### **2.3 Financial Responsibilities of the Audit Committee and the Overview & Scrutiny Committee**

The Audit Committee is responsible for:

- a. Monitoring and annually reviewing corporate governance arrangements;
- b. Receiving risk management updates;
- c. Acting as audit committee; and
- d. Approving the Annual Statement of Accounts.

### **2.4 Financial Responsibilities of the Overview & Scrutiny Committee**

The Overview & Scrutiny Committee is responsible for:

- a. Scrutinising **Cabinet** decisions, including financial implications, before or after they have been implemented and for holding the **Cabinet** to account.
- b. Assisting with the formulation of the Council's budget in accordance with the **Budget and Policy Framework** Standing Orders

### **2.5 Financial Responsibilities of the Statutory Officers**

#### **2.5.1 Head of Paid Service (Chief Executive)**

The core financial responsibilities of the **Head of the Paid Service** are:

- a. Overall management of the number and grade of officers required for providing Council services, ensuring that staffing levels are adequately budgeted;
- b. Ensuring that Council budgets provide enough resources to meet the aims and objectives of the Corporate Strategy and Business Plans; and
- c. Together with the Executive Leadership Team, to input into financial planning processes, review quarterly budget monitoring and outturn reports; and to make recommendations to Cabinet/Council on budget/outturn issues.



## 2.5.2 Monitoring Officer

The **Monitoring Officer** (together with the **Chief Finance Officer**) is responsible for advising the **Cabinet** or **Full Council** about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- a. Initiating a new service or significant changes to the standard of a service, particularly one which commits expenditure in future years in excess of the service budget;
- b. Incurring budget transfers above **virement** limits; and
- c. Cumulatively causing the total expenditure financed from Council Tax, grants and corporately held reserves in the current financial year to increase significantly.

## 2.5.3 Chief Finance Officer

The **Chief Finance Officer** has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties include:

- a. Section 151 of the Local Government Act 1972;
- b. The Local Government Finance Act 1988;
- c. The Local Government and Housing Act 1989; and
- d. The Accounts and Audit Regulations 2015.

The **Chief Finance Officer** is responsible for:

- a. Ensuring lawfulness and financial prudence of decision making. After consulting with the **Head of Paid Service** and the **Monitoring Officer**, the Chief Finance Officer will report to **Full Council**, or to the **Cabinet** in relation to an **executive function** if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully or if 'the books don't balance' (section 114 Local Government Finance Act 1988);
- b. The administration of the financial affairs of the Council;
- c. Contributing to the corporate management of the Council, in particular through the provision of professional financial advice;

- d. Promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;
- e. Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to all **Councillors** and will support and advise Councillors and officers in their respective roles;
- f. Providing financial information to the media, Councillors, the public and the community;
- g. Authorising exceptional payments for which budget provision has not been made, if the Council is legally obliged to make such payments;
- h. The selection of accounting policies, procedures and records for the Council and ensuring that they are applied consistently; and
- i. Ensuring that the annual **Statement of Accounts** is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC). The **Chief Finance Officer** shall present the Statement of Accounts for approval within the statutory timeframes outlined in the Accounts and Audit Regulations 2015.

## 2.6 Financial Responsibilities of the Executive Leadership Team

The Executive Leadership Team consists of the **Head of Paid Service, Statutory Officers** and **Executive Heads**. The financial responsibilities of the Executive Leadership Team are:

- a. To ensure that the **Cabinet** and **Full Council** are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Chief Finance Officer**;
- b. To review the budget performance every quarter, make changes and recommend changes to Cabinet; and
- c. To input into the financial planning processes; to review quarterly budget monitoring and outturn reports; and to make recommendations to Cabinet/Council on budget/outturn issues.

**2.7** The **Head of Paid Service** and **Executive Heads** will consult with the **Chief Finance Officer** and seek approval on any matter liable to materially affect the Council's finances, before any commitments are incurred.

**2.8** All reports to the **Cabinet**, committees and the **Full Council** shall identify financial implications in a format agreed with the **Chief Finance Officer**.

**2.9** In exceptional circumstances, the **Head of Paid Service, Statutory Officer** or an **Executive Head**, in consultation with the **Chief Finance Officer**, may incur expenditure which is essential to meet any immediate need created by an emergency or a situation related to Section 138 of the Local Government Act 1972, such as during a pandemic. This is subject to the action being reported as soon as practical to the **Executive Leadership Team** and the **Cabinet member** with relevant portfolio responsibility, and if the expenditure exceeds £50,000, to **Cabinet**.

### **3. FINANCIAL PLANNING**

**3.1 Full Council** is responsible for agreeing the Council's budget, which will be proposed by the **Cabinet**. In terms of financial planning, the key elements are:

- a. The Council's Corporate Strategy;
- b. The Medium Term Financial Strategy (via a recommendation from **Cabinet**);
- c. The Revenue Budget and Capital Programme;
- d. Investment Strategy; and
- e. The **Treasury Management** Strategy.
- f. The Minimum Revenue Provision Strategy

### **3.2 Policy framework**

3.2.1 The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting Council Tax discounts policy, setting the Council Tax charges and decisions relating to the control of the Council's borrowing requirements, Prudential Indicators, the control of its capital and reserves expenditure and setting of **virement** procedures.

3.2.2 **Full Council** is also responsible for approving procedures for agreeing variations to the approved **Budget and Policy Framework**.

3.2.3 The **Cabinet** is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits (and permitted **virement**) set by the **Full Council**.

### **3.3 Budgeting**

3.3.1 The form of presentation of capital and revenue estimates shall be determined by the **Chief Finance Officer**. Budget estimates shall be prepared by the Heads of Service, in consultation with the **Head of Paid Service, Statutory Officers** and **Executive Heads** and returned to the Chief Finance Officer who shall co-ordinate budget presentation. The draft revenue budget shall include allocation to different services and projects, proposed taxation levels and contingency funds.

- 3.3.2 It is the responsibility of the Heads of Service to control revenue and capital income and expenditure within their services and to monitor performance, taking account of financial information provided by the **Chief Finance Officer**. They must allocate an accountable budget holder for each service budget, and report to the Chief Finance Officer on variances within their own areas and how any additional expenditure can be met. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems at the earliest opportunity.
- 3.3.3 It is the responsibility of the **Chief Finance Officer** to determine and agree the annual Council Tax and Business Rates Tax Bases for the purposes of budget setting.

### 3.4 Revenue Budget preparation

- 3.4.1 The **Chief Finance Officer** is responsible for ensuring that a balanced revenue budget is prepared on an annual basis and that a financial strategy is prepared covering at least three years for consideration by the **Cabinet**, before recommendation to Full Council. (Prior to the start of the financial year being considered)
- 3.4.2 It is the responsibility of the Heads of Service to ensure that budget estimates are submitted to the Chief Finance Officer in line with guidance he/she has issued.
- 3.4.3 The **Chief Finance Officer** is responsible for ensuring that there is adequate consultation and challenge to the budget process.

### 3.5 Revenue budget monitoring and control

Once approved by the **Full Council** the revenue budget gives authority for expenditure to be incurred for the amounts shown in the budget. The **Chief Finance Officer** is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must co-ordinate the monitoring and control of expenditure and income against budget allocations carried out by the Heads of Service, reporting to the **Executive Leadership Team** and to **Cabinet** on the overall position as necessary.

### 3.5 Resource allocation

The **Chief Finance Officer** is responsible for developing and maintaining a resource allocation process, through the annual review of the financial strategy, that ensures due consideration of **Full Council's** policy framework.

### 3.6 Resource Reallocation – Budget Virements

**Virement** shall not be allowable unless the budget provision to be transferred can be transferred as a result of a genuine overall saving to the Council. Where it appears that expenditure against a revenue budget heading will be exceeded, income will be less than forecast or additional expenditure is desirable to meet the objectives of the budget,

the limits in relation to virements are laid out in Budget and Policy Framework Standing Orders.

Virements within budget headings/services areas can be made as long as the balance to the cash limited budget is £0.00

### **3.7 Budget Carry Forwards, Brought Forwards and Budget Variations**

3.7.1 Carry forward to the following financial year of planned under or over-spending will be allowed by the **Chief Finance Officer** in consultation with the **Cabinet member** with portfolio responsibility for finance. The Chief Finance Officer will report such carry-forwards in Budget Monitoring and Outturn reports. The Chief Finance Officer is responsible for implementing processes for the submission of bring forward and carry-forward applications. The amount of a carry-forward may be varied subsequently with the agreement of the Chief Finance Officer.

3.7.2 Brought Forward Budgets refer to the use of future year budgets in the current financial year, particularly capital budgets. The **Chief Finance Officer** is responsible for collating and agreeing bids to bring forward budgets, and will report such bring forwards in Budget Monitoring and Outturn reports.

3.7.3 The **Chief Finance Officer** is responsible for agreeing variations between budgeted and actual income and expenditure, the use of underspends to fund other expenditure and reporting them in Budget Monitoring and Outturn Reports.

### **3.8 Preparation of the Capital Programme**

3.8.1 The **Chief Finance Officer** is responsible for ensuring that a capital programme is prepared for consideration by the **Cabinet** before submission to **Full Council**. New Capital projects should be identified by Heads of Service to the Chief Finance Officer, as part of the Budget Planning Process, for inclusion in the Capital Programme.

3.8.2 Capital schemes may only be committed after:

- a. An assessment in the agreed standard format including an estimate of the associated revenue expenditure and income has been approved by the Cabinet; and
- b. Appropriate finance has been made available.

### **3.9 Control of Capital Schemes**

Where it appears that any scheme in the capital programme will be overspent by a sum of £50,000 or more a report shall be made to the **Cabinet**. The **Chief Finance Officer** will advise the Cabinet whether or how requests for additional capital finance can be achieved within the overall capital programme. The Chief Finance Officer is authorised

to approve **virements** within the capital programme as outlined in Budget and Policy Framework Standing Orders.

### 3.10 Guidelines

Guidelines on capital budget preparation are to be issued by the **Chief Finance Officer**. The guidelines will take account of:

- a. Legal requirements;
- b. Links with the Business Planning process;
- c. The Council's Corporate Strategy;
- d. Available resources;
- e. Spending pressures;
- f. Relevant government guidelines;
- g. Other internal policy documents; and
- h. Issues that cut across various areas (where relevant).

### 3.11 Maintenance of reserves

3.11.1 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or Full Council on prudent levels of reserves for the Council.

3.11.2 It is the responsibility of Heads of Service as Budget holders to submit expenditure plans for specific reserves to the Chief Finance Officer for consideration by Cabinet. It is the responsibility of Cabinet to agree to the creation of specific reserves, the closure of specific reserves, virement between reserves and the delegations in place to release funds from reserves prior to the release of funds from those reserves.

## 4. RISK MANAGEMENT AND CONTROL OF RESOURCES

### Introduction

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council including the proactive participation of all those associated with planning and delivering services.

### 4.1 Risk management

4.1.1 The Audit Committee is responsible for reviewing the effectiveness of risk management. The **Chief Finance Officer** is responsible for promoting good

risk management practice, advising upon and ensuring that proper insurance exists where appropriate.

- 4.1.2 The **Head of Paid Service** and the **Executive Heads** responsible for corporate risk management having regard to advice from the **Chief Finance Officer** and other specialist officers (e.g. Health and Safety). The key controls for risk management are:
- 4.1.3 Procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council and for all significant projects;
- 4.1.4 A monitoring process is in place to regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
- 4.1.5 Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- 4.1.6 Risks are quantified in financial terms and provision is made for losses that might result from the risks that remain;
- 4.1.7 Procedures are in place to investigate claims within required timescales;
- 4.1.8 Acceptable levels of risk are determined and insured against where appropriate; and
- 4.1.9 The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

## 4.2 Insurances

- 4.2.1 The **Chief Finance Officer** shall effect all insurance cover deemed necessary and negotiate all claims in consultation with other officers where necessary. The Monitoring Officer has authority to settle claims on behalf of the Council.
- 4.2.2 Heads of Service shall give prompt notification to the **Chief Finance Officer** of all new risks, properties or vehicles or other assets which may require to be insured and of all alterations which may affect existing insurances.
- 4.2.3 Heads of Service shall notify the **Chief Finance Officer** in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police where appropriate. In cases of urgency the **Head of Paid Service** and **Executive Heads** will report orally pending submission of a written report. The Chief Finance Officer shall, appropriately, keep the Head of Paid Service informed.

- 4.2.4 The **Chief Finance Officer** shall periodically review all insurances in consultation with the Heads of Service, Head of Paid Service and **Executive Heads** as appropriate.
- 4.2.5 The **Chief Finance Officer** shall review the internal funding for insurance risks on a regular basis and report to the **Cabinet** as required.
- 4.2.6 The **Head of Paid Service** and **Executive Heads** shall consult the **Chief Finance Officer** and the **Monitoring Officer** regarding the terms of any indemnity which the Council is requested to give.
- 4.2.7 The **Head of Paid Service** or **Executive Head** concerned shall notify the **Chief Finance Officer** in such form as he/she may require of any case known to him/her where steps are necessary to prevent or mitigate loss or damage of property not belonging to the Council but in their control.

### 4.3 Internal Control

- 4.3.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.3.2 The **Chief Finance Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.3.3 It is the responsibility of the Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness (best value) and for achieving their financial performance targets.
- 4.4.4 It is the responsibility of the **Chief Finance Officer** to ensure that a review of the adequacy of Corporate Governance arrangements is carried out at least annually, in accordance with the Accounts and Audit Regulations 2015.

### 4.5 Audit requirements

- 4.5.1 The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit of its accounting records and of its system of internal control. The standards for proper practices in relation to internal audit are laid down in the Public Sector Internal Audit Standards.
- 4.5.2 Responsibility for maintaining an adequate and effective system of internal audit is delegated to the **Chief Finance Officer**. Heads of Service must



ensure that agreed actions regarding audit recommendations are carried out in a timely and efficient manner.

4.5.3 The **Chief Finance Officer** is required to present the annual Audit Plan, for approval, to the **Audit Committee** and, at least three times in each year, report on progress against the plan and give details of management responses to audit recommendations.

4.7.4 The Internal Auditor, **Chief Finance Officer** or his/her authorised representatives, and relevant external bodies, such as HM Revenues & Customs, shall have authority where necessary in the performance of their duties to:

- a. Enter any Council premises or land in the occupation of the Council;
- b. Have access to all records, documents and correspondence relating to any financial and other transaction of the Council;
- c. Require and receive oral or written explanations from any employee as he/she thinks necessary concerning any matter under examination; and
- d. Require any employee of the Council to produce cash, stores or any other Council property under his/her control.

4.7.5 The **Chief Finance Officer** is responsible for ensuring that the selection of External Auditors is carried out in line with statutory guidance. The basic duties of the external auditor are governed by part 5 of the Local Audit and Accountability Act 2014. The role of the Council's external auditor is to examine the Council's Statement of Accounts to ensure they are a true and fair representation of the Council's financial position. The External Auditor also is responsible for reviewing certain grant claims and performing value for money reviews.

#### 4.8 Preventing fraud and corruption

4.8.1 The **Chief Finance Officer** is responsible for the development, promotion and maintenance of an anti-fraud and anti-corruption policy. The **Head of Paid Service, Executive Heads** and Heads of Service are responsible for reporting to the Chief Finance Officer all suspected irregularities and to instigate the appropriate disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

4.8.2 Whenever any matter arises which involves, or is thought by any officer or Councillor to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity as to finance, property or advantages in the exercise of the functions of the Council, the officer or Councillor concerned shall forthwith notify the **Chief Finance Officer** who shall, in consultation with the **Monitoring Officer**, take such steps as are considered necessary.

#### 4.9. Assets Security

- 4.9.1 Heads of Service must ensure that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- 4.9.2 The **Head of Paid Service** and **Executive Heads** are responsible for ensuring that proper arrangements exist for the security and care at all times of all buildings, stocks, stores, furniture, equipment, cash etc., under their control and shall consult the **Chief Finance Officer** in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 4.9.3 Maximum limits for cash holdings shall be agreed with the **Chief Finance Officer** and shall not be exceeded without his/her express permission.
- 4.9.4 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times except where this is wholly impracticable when the keyholder must always ensure the absolute safety of the keys; the loss of any such keys must be reported to the **Chief Finance Officer** immediately after the loss is discovered.
- 4.9.5 The **Head of Paid Service** and **Executive Heads** shall be responsible for maintaining proper security and privacy of information contained in all financial records under their control, in accordance with the principles of the Data Protection Act. The Head of Paid Service and Executive Heads shall have regard to any advice given by the officer appointed as Data Protection Officer or Information Risk Officer.
- 4.9.6 The **Head of Paid Service** and **Executive Heads** shall have regard to the Council's I.S./I.T. Security Policy and ensure that only licensed software is used in systems under their control, seeking advice from the internal specialists as necessary. In addition, appropriate measures must be taken to ensure that the Council's Rules and Regulations with regard to the use of the Council's Intranet, and communication by e-mail, are observed at all times.
- 4.9.7 Council property, for example printing, telephones and photo-copiers, computers, laptops and tablets shall not be used for private purposes.

#### 4.10. Stocks and Stores

Stock and store records are to be kept in a form approved by the **Chief Finance Officer**. An independent stock take of all stocks shall be arranged by the Head of Service concerned, who shall periodically certify the stores in hand and give a written explanation of differences. Only the **Chief Finance Officer** or his/her authorised representative shall agree write-offs of deficiencies in stock.

#### 4.11. Intellectual Property

Heads of Service must protect intellectual property rights of any value. A register shall be maintained by the Head of Finance.

#### 4.12. Physical Assets

4.12.1 A register of Council land holdings shall be maintained by the Head of Finance & Assets of all land and property owned by the Council, recording the purpose for which it is held, the location, extent and plan reference, purchase details, particulars of nature or interest, rents payable and tenancies/other interests granted.

4.12.2 The **Monitoring Officer** shall have the custody of all title deeds of property belonging to or mortgaged to the Council.

Heads of Service shall supply the **Chief Finance Officer** with such information as he/she requires to maintain an Asset Register recording all Council owned land, buildings and assets initially costing (or currently valued at) greater than £10,000 for the purposes of Capital Accounting.

4.12.3 Inventories shall be maintained by all service units of furniture, fittings and equipment, vehicles, plant and machinery, in a form and to such extent as prescribed by the **Chief Finance Officer**. Inventories shall include for each item the date of purchase and the purchase price.

4.12.4 Heads of Service shall nominate inventory holders, and be responsible for ensuring the inventories are checked at least annually and on a change of inventory holders.

4.12.5 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purpose without the approval of the **Head of Paid Service** and **Executive Head** concerned.

4.12.6 Disposals of land and property assets for best consideration may be undertaken by the Head of Finance & Assets provided that the assets have been declared by **Cabinet** to be surplus to requirements, or they are included within a planned disposal programme approved by **Cabinet**, or the disposal is agreed by the **Cabinet member** with relevant portfolio responsibility.

4.12.7 Plant, equipment and vehicle asset disposals may be agreed by the relevant **Executive Head**, in consultation with the **Chief Finance Officer**. Further information on disposal methods can be obtained from the Chief Finance Officer.

4.12.8 Best consideration must be achieved in the disposal of all fixed assets. Where items are to be scrapped at nil consideration they must be disposed of directly to a County Council Waste Disposal facility, or through a commercial company approved by the **Chief Finance Officer**.

- 4.12.9 Land and property assets to be disposed of shall normally be offered for sale on the open market, other than where only one buyer for the asset is likely to exist, or where a higher price is likely to be achieved by negotiating direct with the buyer with a special interest (i.e. a special purchaser), or where **Cabinet** approved the disposal to a specific buyer. Any decision taken to dispose of land or property shall be informed by professional valuation and marketing advice provided by appropriately qualified and experienced officers or external consultants. The method of disposal, and the level and form of marketing, shall be appropriate to the nature of the asset to be disposed of and to the market in which the disposal is to take place. It shall be designed to achieve the best consideration reasonably obtainable, unless Cabinet has expressly approved the disposal of the asset to a specified buyer at less than best consideration (with approval of the Secretary of State as necessary).
- 4.12.10 Surplus IT or other equipment, if appropriate, may be disposed of to bona fide non-profit distributing organisations based within the Council's area free of charge. Further information on disposal methods is available from the **Chief Finance Officer**.

#### 4.13. Treasury management

- 4.13.1 The Council has adopted the CIPFA Treasury Management in the Public Services Code of Practice ("the Code").
- 4.13.2 The Council will create and maintain a **Treasury Management** Strategy, stating the policies, objectives and approach to risk management of its treasury management activities. Suitable treasury management practices (TMPs) will set out how the organisation will achieve those policies and objectives, prescribing how it will manage and control those activities.
- 4.13.3 The content of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
- 4.13.4 The **Treasury Management** Strategy will determine the reporting structure for Treasury Management Activities. Quarterly performance information on Treasury Management activities will be included in budgetary control reports to all Councillors.
- 4.13.5 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices, and for the execution and administration of treasury management decisions to the **Chief Finance Officer**, who will act in accordance with the organisation's policy statement and TMPs and, CIPFA's Standard of Professional Practice on Treasury Management.

- 4.13.6 Under the Local Government Act 2003 the Council is required to “have regard to” the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council’s plans are affordable, prudent and sustainable. All day to day decisions on borrowing, investment or financing shall be delegated to the **Chief Finance Officer**, who is required to act in accordance with the Prudential Indicators set by the Council.
- 4.13.7 For the avoidance of doubt there is no financial limit on the amounts of money that can be borrowed, lent, held, invested or otherwise dealt with by the **Chief Finance Officer** in pursuance of any Council adopted plan or strategy.
- 4.13.8 All investments of money under its control shall be made in the name of the Council except where Fund Managers are employed to act on behalf of the Council; bearer securities shall be excepted from this regulation.
- 4.13.9 All securities which are the property of, or in the name of, the Council shall be held in the custody of the **Monitoring Officer** or **Chief Finance Officer**, except where Fund Managers are employed to act on behalf of the Council.
- 4.13.10 All borrowings shall be undertaken in the name of the Council.
- 4.13.11 Any trust funds shall wherever possible be in the name of the Council.
- 4.13.12 All officers acting as trustees by virtue of their official position shall deposit all securities etc. relating to the trust with the **Monitoring Officer** unless the trust provides otherwise.

#### **4.14. Banking arrangements**

- 4.14.1 All arrangements with the Council’s bankers shall be made by the **Chief Finance Officer** and he or she shall be authorised to operate such banking accounts, as he or she may consider necessary.
- 4.14.2 All cheques and electronic transfers, shall be authorised only on the authority of the **Chief Finance Officer** or officers nominated by him or her.
- 4.14.3 Cheques on the Council’s Account, shall bear the facsimile signature of the **Chief Finance Officer**, or be signed by the Chief Finance Officer or other Officer authorised by him/her and in accordance with the Bank Mandate.

#### **4.15. Staffing**

- 4.15.1 The **Head of Paid Service** is responsible for the overall management of staff and ensuring that there are proper evaluation, pay negotiations, and other agreed systems for determining the remuneration of a post.
- 4.15.2 The **Head of Paid Service**, **Executive Heads** and Heads of Service are responsible for controlling total staff numbers by:

- a. Advising the **Cabinet** on the budget necessary in any given year to cover estimated staffing levels;
- b. Managing staffing establishments and budgets in the most advantageous manner to achieve the policies agreed by the **Cabinet** and the **Full Council**;
- c. Ensuring at all times, that spending committed by contracts of employment is, and will be, within approved budgets, published forward projections and confirmed external funding – thus not increasing future year commitments. The **Chief Finance Officer** and Head of Organisational Development shall be consulted on all proposed changes;
- d. Changes affecting officers on **chief officer** terms and conditions cannot be made outside of the parameters in the approved Pay Policy Statement without approval of **Full Council**; and
- e. Reviewing staffing levels periodically. Where this results in one off costs exceeding £50,000, a business case should be provided to Cabinet/Committee for consideration.

## **5 FINANCIAL SYSTEMS AND PROCEDURES**

- 5.1 The **Chief Finance Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. However, the **Head of Paid Service, Statutory Officers** and **Executive Heads** are responsible for the proper operation of financial processes in their own service areas.
- 5.2 Any amendments to agreed financial procedures by the **Head of Paid Service, Statutory Officers** and **Executive Heads** to meet their own specific service needs must be agreed with the **Chief Finance Officer**.
- 5.3 The **Head of Paid Service, Statutory Officers** and **Executive Heads** should ensure that their staff receive relevant financial training that has been approved by the **Chief Finance Officer**.
- 5.4 The following principles shall be observed in the allocation of accounting duties:
  - a. Wherever possible there should be adequate segregation of duties so that employees with the duty of checking transactions are not themselves engaged in any of those transactions;
  - b. The duty of providing information, calculating, checking and recording sums due to or from the Council shall wherever possible be separated from the duty of collecting and disbursing them;
  - c. Wherever possible accounting transactions and control functions (such as reviews and reconciliations) should be evidenced, providing a full audit trail; and

- d. Employees shall not certify claims for reimbursement of expenses or other payments to themselves.

## 5.5 Income and expenditure

### 5.5.1 Collection of income

5.5.1 The collection of all money due to the Council shall be in accordance with arrangements approved by the **Chief Finance Officer**. Unless otherwise agreed by the Chief Finance Officer no money received by Council employees in the course of their duties shall be paid into any other bank account other than the Council's bank account.

5.5.2 The **Head of Paid Service, Statutory Officers** or appropriate **Executive Head** shall be responsible, in accordance with the current policies of the Council, for the review of prices for services.

5.5.3 The Heads of Service shall ensure that accounts are rendered promptly in connection with income due in respect of work done, goods supplied, services rendered or other amounts payable to the Council. They shall also ensure that any service area computer systems recording income are reconciled monthly to the cash received in the Council's main financial system, and that this is taken into account when purchasing such computer systems.

5.5.4 The **Chief Finance Officer** shall be notified promptly of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.

5.5.5 Arrangements for the control of all receipt forms, receipt books, tickets and other such items shall be approved by the **Chief Finance Officer**.

5.5.6 Each employee who banks money shall comply with any instructions prescribed by the **Chief Finance Officer**. All money received on behalf of the Council shall be made to the Council's cashier, approved cash receptacles, or to the Council's bank account without delay and always within three working days of collection. Payments received in full and final settlement shall only be accepted if they are sufficient to fully clear the appropriate debt.

5.5.7 Personal cheques shall not be cashed out of the money held on behalf of the Council.

5.5.8 The **Chief Finance Officer** shall be the only officer authorised to write off uncollectable debts over £5,000, after taking the advice of the Head of Service and Debt Recovery Teams as appropriate. Debts under £5,000 may be written off by the **Chief Finance Officer** and Head of Customer Services. Cumulative debts over £50,000 may be written off by the **Chief Finance Officer** after consultation with the **Cabinet member** with portfolio responsibility for Finance.

## 5.6 Expenditure

### 5.6.1 Orders

Official orders shall be in a form determined by the **Chief Finance Officer**. They are to be authorised only by officers agreed by the **Head of Paid Service, Statutory Officers** or appropriate **Executive Head** who shall be responsible for official orders issued from his/her Service areas. The appointment of signatories or requisitioners and approvers in the electronic systems requires the approval of the Chief Finance Officer. Signatories must ensure that goods and services are appropriate and needed, that there is adequate budget provision, that **Contract Standing Orders** have been complied with and that value for money principles have been followed prior to signing or authorising invoices.

Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of services by public utilities, for periodical payments such as rent or rates, for petty cash payments, for contracts in writing signed in accordance with **Contract Standing Orders**.

Each order shall conform with the directions of the Council, Standing Orders related to contracts and any policies or directions of the Council related to purchasing. The Council's computerised commitment accounting system shall be used unless otherwise agreed by the **Chief Finance Officer** and outstanding orders shall be checked by service units periodically, and at least annually, to ensure management accounting information is accurate.

Where an official order is not issued, a contracts register or other record shall be kept by the Finance Business Partners to monitor payments and prevent duplicate payments. Budget holders will consult with Finance Business Partners prior to committing expenditure without official order.

### 5.6.2 Payment of Accounts

The **Chief Finance Officer** shall promptly pay all accounts properly due and payable by the Council in accordance with the Prompt Payment Code (30 days) and Regulations. The Chief Finance Officer may withhold payment until the resolution of any dispute relating to an invoice.

The Head of Service responsible for an order is responsible for the processes for requisitioning, order and approval for payment in his/her service area in accordance with procedures approved by the **Chief Finance Officer** which shall include electronic receipting and approval processes.

When required to approve an account for payment either electronically or in writing, the checking officer shall ensure that:

- a. The works, goods or services to which the account relates have been received, carried out, examined and approved;



- b. The prices, extensions, calculations, trade discounts, other allowances, credits and tax have been compared to the order and are correct;
- c. The relevant expenditure has been properly incurred;
- d. The relevant expenditure is within the relevant budget provision as properly varied under these regulations; or is otherwise in pursuance of a Council instruction; or in case of agency or contract work, by the County Council or another principal authority; or is specifically required by law;
- e. Appropriate entries have been made in inventories and stores records as required;
- f. The account has not been previously passed for payment and is a proper liability of the Council;
- g. The account (including any Value Added Tax) has been correctly coded.

The **Chief Finance Officer** shall examine invoices received to the extent that he/she considers necessary for carrying out statutory duties.

Budget Holders will notify the **Chief Finance Officer** of the value and detail of all expenditure and income relating to goods or services provided by 31 March but not yet settled, to ensure these are accounted for on an accrued basis.

Use of Council corporate purchase cards, including fuel cards and credit cards, shall be in accordance with instructions issued by the **Chief Finance Officer** and a signed undertaking. Only the Chief Finance Officer shall have authority to obtain corporate purchase cards.

### 5.6.3 **Imprest Accounts**

The **Chief Finance Officer** shall authorise such **imprest accounts** as he/she considers appropriate for such officers of the Council as may need them for the purpose of petty cash payments and other expenses.

Income received on behalf of the Council may not be paid into an **imprest account** but must be banked, or paid to the Council.

Petty cash payments shall be limited to minor items of expenditure and to such other items as the **Chief Finance Officer** may approve and shall be supported by receipted vouchers and proper VAT receipts where appropriate. In no case shall the amount of an individual payment exceed £50. Petty cash payments may not be used for travel and subsistence payments, nor used to bypass the normal purchase ordering process.

An officer responsible for an **imprest account** shall, if so requested, give to the Chief Finance Officer a statement of the account as at a given date.

On leaving the employment of the Council or otherwise ceasing to be entitled to hold an **imprest account** the officer concerned shall account to the **Chief Finance Officer** for the amount advanced to him/her.

The **Chief Finance Officer** may authorise change floats as required and these shall be subject to the imprest account regulations.

#### 5.6.4 **Payments to Employees and Councillors**

The **Chief Finance Officer** is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Councillors.

All Line Managers shall notify the Human Resources Team and the HR team shall notify payroll promptly within the time limits and in the form prescribed, of all matters affecting the payment of such emoluments, and in particular:

- a. Appointments, resignations, dismissals, suspensions, secondments and transfers;
- b. Absences from duty for sickness or other reasons, apart from approved leave;
- c. Changes in remuneration, other than normal increments and pay awards and agreements of general application; and
- d. Information necessary to maintain records of service for superannuation, income tax, national insurances and the like.
- e. All notifications must be signed/authorised by the appropriate manager or nominated officer.

Appointments of all employees shall be made in accordance with the regulations of the Council and the established grades and rates of pay.

All time records or other pay documents shall be in a form prescribed by the **Chief Finance Officer** and shall be certified by authorised officers. The names of officers authorised to sign such records shall be sent to Finance together with specimen signatures and shall be amended on the occasion of any change.

Heads of Service shall, at least annually, certify the staffing budget for their services as part of the budget setting process.

All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified, to the **Chief Finance Officer** in a form approved by him/her. The names of officers

authorised to sign such records shall be sent to the Chief Finance Officer, together with specimen signatures and shall be amended on the occasion of any change.

The certification of expense claims shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are correctly calculated in line with the Council's Terms & Conditions.

Payments to Councillors, including co-opted members of the Council who are entitled to claim travelling or other allowances will be made by the **Chief Finance Officer** upon receipt of the prescribed form duly completed. The Chief Finance Officer shall be empowered to require periodically from Councillors claiming financial loss allowance a certified statement as to their income. Payments will be made in accordance with the scheme as directed by **Full Council**, following a review of the scheme by an appointed Independent Remuneration Panel.

#### 5.6.5 **Taxation**

The **Chief Finance Officer** is responsible for advising the **Executive Leadership Team** and Councillors, in the light of guidance issued by appropriate bodies and relevant legislation, on significant taxation issues that affect the Council.

The **Chief Finance Officer** is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date.

The **Head of Paid Service** and **Executive Heads** are responsible for ensuring that transactions within their responsibility comply with the law relating to general taxation and V.A.T. The **Chief Finance Officer** will provide guidance and advice on the administration of V.A.T.

All matters of both principle and practice, including any significant errors or discrepancies, shall be immediately referred to the Chief Finance Officer.

Contacts with HM Revenue and Customs concerning matters of V.A.T must be through the Chief Finance Officer.

#### 5.6.6 **Trading accounts/business units**

It is the responsibility of the **Chief Finance Officer** to advise on the establishment and operation of trading accounts and business units.

#### 5.6.7 **Ex-Gratia payments**

Ex-Gratia payments are defined as discretionary payments to staff, suppliers and third parties that the Council is under no legal obligation to make. The **Head of Paid Service** and **Executive Heads** in consultation with the **Chief**

**Finance Officer** and **Monitoring Officer** shall have discretion to make ex-gratia payments when he/she considers them justified by reason of the particular circumstances. Ex-gratia payments to staff shall not be made in respect of salary arrangements covered by established Council practice. Ex-gratia payments shall be met from appropriate service budgets.

#### 5.6.8 **Retention of records**

The **Chief Finance Officer** shall determine the requirements that the **Head of Paid Service** and **Executive Heads** shall observe in relation to the retention of financial records. Retention may be in electronic format.

## **6: EXTERNAL ARRANGEMENTS**

### **6.1 Introduction**

The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It should also promote social value and the economic, social or environmental well-being of its area.

### **6.2 Partnerships**

The **Head of Paid Service, Statutory Officers** and **Executive Heads**, with agreement of the **Chief Finance Officer**, must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. The **Chief Finance Officer** is also responsible for ensuring proper arrangements for partnership cost sharing where appropriate. He or she must ensure that risks have been fully appraised before agreements are entered into with external bodies.

The **Head of Paid Service, Statutory Officers** and **Executive Heads** are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to financial transactions with external bodies.

### **6.3 External funding**

The **Chief Finance Officer** is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. The **Head of Paid Service, Statutory Officers** and **Executive Heads** shall inform the **Chief Finance Officer** immediately of funding notified by external bodies and any conditions attached, and shall ensure that claims for funds and project progress reports are submitted by the due date in liaison with the **Chief Finance Officer**. If any new financial obligations are placed upon the Council as a condition of receiving external funding, these obligations must be approved by the Cabinet prior to the submission of any bids.

Expenditure of any external funding will be the responsibility of the appropriate Head of Service, in consultation with the **Chief Finance Officer**.

#### **6.4 Work for third parties**

Contractual arrangements to undertake work for third parties, must be approved by Cabinet in situations where the **Chief Finance Officer** is of the view that such a contract may cause a significant risk of net cost to the Council, or where the total value of new work in one year will exceed £250,000.

Where support services and front line services are to be sold to external customers, due diligence must be undertaken to ensure that services provided are of good quality, and to minimise the risk of non-payment.

# Part Three, Section H

## Contract Procedure Rules

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### SCOPE OF CONTRACT STANDING ORDERS

- Rule 1: Basic Principles
- Rule 2: Officer Responsibilities
- Rule 3: Exemptions, collaborative and E-procurement arrangements
- Rule 4: Relevant Contracts

### COMMON REQUIREMENTS

- Rule 5: Steps prior to purchase
- Rule 6: Record
- Rule 7: Advertising, Approved Lists and Framework Agreements

### CONDUCTING PURCHASE AND DISPOSAL

- Rule 8: Competition requirements for purchase and partnership arrangements
- Rule 9: Pre-Tender market research and consultation
- Rule 10: Standards and Award Criteria
- Rule 11: Invitations to Tender/Quotations
- Rule 12: Shortlisting
- Rule 13: Submission, receipt and opening of Tenders/Quotations
- Rule 14: Clarification procedures
- Rule 15: Evaluation
- Rule 16: Post Tender negotiation
- Rule 17: Award of contracts and Framework Agreements and debriefing Candidates

### CONTRACT AND OTHER FORMALITIES

- Rule 18: Compliance with legislation
- Rule 19: Contract documents
- Rule 20: Bonds and Parent Company Guarantees

### CONTRACT MANAGEMENT

- Rule 21: Managing contracts
- Rule 22: Risk assessment and contingency planning
- Rule 23: Contract monitoring, evaluation and review definitions

## BRIEF GUIDE TO CONTRACT STANDING ORDERS

### Brexit impact

Many of the laws and practices within this Constitution, such as the UK public procurement regime, derive from EU laws, and are therefore impacted by the UK's withdrawal from the EU.

As of 31 January 2020, the UK is no longer an EU Member State and its relationship with the EU is governed by the Withdrawal Agreement, which came into effect on 1 February 2020. The Withdrawal Agreement contains transitional arrangements, which provide for a transition period until 31 December 2020.

During this period, the UK continues to be treated as a Member State for current purposes and continues to be bound by the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016. Whilst they are based on EU Law the rules are unlikely to change significantly in the short term (on 1 January 2021 when Britain leaves the EU following the transitional period) and most likely only to accommodate World Trade Organisation or other Trade Rules.

**If at any time these rules differ from the law in force then the law must be followed as it will override any conflicting provision in these rules.**

**This Constitution and these Contract Procedure Rules will be kept under review during the implementation period and updated accordingly. For further guidance, please contact the Monitoring Officer.**

These **Contract Procedure Rules** (issued in accordance with section 135 of the Local Government Act 1972) are intended to promote good purchasing practice, public accountability and deter corruption. Officers responsible for purchasing must comply with these **Contract Standing Orders**. They lay down **minimum requirements** and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that Quotes be obtained, it might be appropriate in particular circumstances to seek additional Quotations in writing or Tender submissions).

Following the rules promotes probity, integrity and impartiality and is the best defence against allegations of fraud or corruption. Failure to follow the rules could result in disciplinary action.

Key considerations for Officers engaged in purchasing works, goods and services include:

- Follow the rules if you purchase goods or services or order building work;
- Take legal, financial and procurement advice;
- Declare any personal financial interest in a contract. Corruption is a criminal offence;
- Check whether there is an existing Corporate Contract, Government Procurement Service framework, Hampshire County Council, Hampshire and the Isle of Wight procurement partnership or other purchasing arrangement you can make use of **before** undergoing a competitive process;

- Consider the social, economic and environmental wellbeing of the area and how this can be strengthened by delivering your needs (social value);
- Normally allow at least four weeks for submission of bids;
- Keep bids confidential;
- Complete a written contract or purchase order before the supply or works begin;
- Identify a contract manager with responsibility for ensuring the contract delivers as intended;
- Keep written records of dealings with suppliers;
- Report as required periodically on performance of the supplier; and
- Assess each contract afterwards to see how well it met the purchasing need and Best Value requirements.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

Capitalized words are defined terms which can be found in the 'Definitions' at the back of this Section H. Words in **bold** are defined in the Glossary.

## **SCOPE OF CONTRACT STANDING ORDERS**

### **1 BASIC PRINCIPLES**

- 1.1 All purchasing and concession procedures must:
- 1.1.1 Achieve Best Value and Value for Money for public money spent;
  - 1.1.2 Support the Council's corporate and departmental aims and policies;
  - 1.1.3 Be consistent with the highest standards of integrity;
  - 1.1.4 Be transparent;
  - 1.1.5 Be non-discriminatory;
  - 1.1.6 Ensure fairness in allocating public contracts;
  - 1.1.7 Comply with all legal requirements and provide accountability for decisions made, with an audit trail appropriate to the decision;
  - 1.1.8 Ensure that Non-commercial Considerations do not influence any Contracting Decision (except for social value considerations);
  - 1.1.9 Wherever possible be made on the Council's terms/industry model contracts; and
  - 1.1.10 Comply with the Council's Procurement Strategy and other relevant policies.



- 1.2 Before starting a procurement process, the Public Services (Social Value) Act 2012 requires the authority to consider the following:
- 1.2.1 How what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area; and
  - 1.2.2 How, in conducting the process of procurement, it (the authority) might act with a view to securing that improvement.

The above matters should influence the commissioning strategy and how local businesses can be supported relevant to what is proposed to be commissioned or procured.

Further, the authority must consider whether to undertake any consultation as to the matters referred to in (a) and (b) above.

- 1.3 The following are key principles of public procurement:
- 1.3.1 Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.
  - 1.3.2 No procurement shall be designed with the intention of excluding it from the scope of the regime or of artificially narrowing competition. Competition is artificially narrowed where a procurement is designed with the intention of unduly favouring or disadvantaging certain economic operators.

If the Council fails in this duty, a potential supplier may have justifiable cause for complaint. The Council may be required to pay compensation if such a complaint were upheld; in addition, a contract or Framework Agreement may be rendered ineffective, either in whole or in part, and civil financial penalties may be imposed on the Council.

## 2 OFFICER RESPONSIBILITIES

- 2.1 Officers
- 2.1.1 Officers responsible for purchasing must comply with these **Contract Standing Orders**, the **Financial Procedure Rules**, the **Code of Conduct for Officers** and with all UK and European Union binding legal requirements. Officers must ensure that any agents, Consultants and contractual partners acting on their behalf also comply.
  - 2.1.2 Officers must:
    - (a) Have regard to guidance received from Legal and Procurement Officers;
    - (b) Check whether a suitable existing Corporate Contract, Government Procurement Service Contracts, Hampshire County Council,

Hampshire and the Isle of Wight procurement partnership exists before seeking to let another contract; where a suitable contract exists, this must be used unless there is a reason not to in which case the reason must be recorded;

- (c) Keep the records required by Rule 6;
- (d) Comply with s117 of the Local Government Act 1972 in relation to the declaration of interest in contracts;
- (e) Comply with the **Code of Conduct for Officers** and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the Bribery Act 2010; and
- (f) Take legal, financial and procurement advice.

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended (TUPE) issues are considered and obtain legal and personnel advice before proceeding with inviting Tenders or Quotations.

2.1.4 Officers must not extend existing contracts without the consent of the **Chief Executive** and **Chief Finance Officer** unless the original contract made provision for extension of the original term.

2.2 Heads of Service must:

2.2.1 Ensure that their staff comply with Rule 2.1; and

2.2.2 Keep registers of:

- (a) Contracts completed by signature, rather than by the Council's seal (see Rule 19.3) and arrange their safekeeping on Council premises; and
- (b) Exemptions recorded under Rule 3.2.

### **3 EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS**

3.1 The **Executive** has power to waive any requirements within these **Contract Procedure Rules** for specific projects, and any such decision may be a **Key Decision**. The **Full Council** may waive these rules in respect of **non-executive functions**.

3.2 A Head of Service may, (subject to the **Chief Finance Officer's** written approval where the Total Value is likely to exceed £50,000) and subject to paragraph 3.3 below

waive any requirements within these **Contract Standing Orders**, where they are satisfied:

- 3.2.1 Goods are to be bought at auction or reverse auction and the **Chief Executive** has approved in writing that the Council's best interest will be served by purchase through auction and has agreed an upper limit for bids;
  - 3.2.2 Only one contractor can provide the goods services or works required and there is no reasonable alternative contractor or the nature of the goods, services or works is so specialised that only one supplier or two suppliers can be found e.g. servicing existing specialist plant, dredging, computer software or equipment or where each supplier is different and rigorous evaluation has been undertaken to ensure Value for Money e.g. specialist Consultants; and
  - 3.2.3 The need for the goods, services or works is so urgent that the time needed to comply with the rules would be prejudicial to the Council's interests.
- 3.3 Where a proposed contract is likely to exceed the EU Threshold, a Head of Service has no delegated powers and the matter has to be determined by the **Executive** or **Full Council** (see Rule 3.1). Above the EU Threshold only EU compatible exemptions can be used.
  - 3.4 All exemptions, and the reasons for them, must be recorded by the Head of Service. The Corporate Procurement Service must be consulted and any exemption approved in writing by the **Monitoring Officer** in advance. **The Chief Finance Officer** may monitor the use of all exemptions.
  - 3.5 The Corporate Procurement Service, the **Chief Finance Officer** and the **Monitoring Officer** must be consulted prior to commencing any procurement process using Government Procurement Service Contracts or other joint purchasing arrangements with another local authority, statutory undertaker or public service purchasing consortium.
  - 3.6 The terms and conditions of contracts applicable to any joint purchasing framework or consortium arrangement, including the requirement to undertake competition between providers (mini-competitions), must be fully complied with.
  - 3.7 All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these **Contract Procedure Rules** and no exemption is required. However, purchases above the EU Threshold must be let under the EU Procedure, unless the framework or consortium has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of the authority and other consortium members.
  - 3.8 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with

these **Contract Procedure Rules** and no exemption is required. However, advice must be sought from the **Monitoring Officer** and the Corporate Procurement Service.

- 3.9 The presumption is that any procurement (whether open, restricted, competitive procedure with negotiation, competitive dialogue, concession or e-auction) will be managed electronically, through systems managed by the Corporate Procurement Service. The use of e-procurement technology does not negate the requirement to comply with all applicable elements of these contract procurement rules, particularly those relating to competition and Value for Money.

## **4 RELEVANT CONTRACTS**

- 4.1 All Relevant Contracts must comply with these **Contract Standing Orders**. A Relevant Contract is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

4.1.1 The carrying out of construction and engineering works;

4.1.2 The supply of goods;

4.1.3 Works or services concessions;

4.1.4 The hire, rental or lease of goods or equipment; and

4.1.5 The delivery of services.

- 4.2 Relevant Contracts do not include:

4.2.1 Contracts of employment which make an individual a direct employee of the authority;

4.2.2 Planning obligations under s. 106 Town and Country Planning Act 1990 or similar;

4.2.3 Grants, awards, loans or advances of money; or

4.2.4 Agreements regarding the acquisition, disposal, or transfer of land which do not form part of a wider transaction under which the Council procures or is deemed to procure works, goods, services or development (for which the **Financial Procedure Rules** shall apply).

## **COMMON REQUIREMENTS**

### **5 STEPS PRIOR TO PURCHASE**

- 5.1 The Officer must access the purchase, in a manner commensurate with its complexity and value, and take into account the Purchasing Guidance, by:

- 5.1.1 Defining the need and whether in light of social value obligations the Council, or local suppliers could provide the supplies works or services;
- 5.1.2 Satisfying themselves that they have the necessary authority to deal with the purchase and that there is budget provision for the purchase;
- 5.1.3 Taking into account the requirements from any relevant review appraising the need for the expenditure and its priority defining the objectives of the purchase;
- 5.1.4 Assessing the risks associated with the purchase (including data and information governance obligations) and how to manage them;
- 5.1.5 Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
- 5.1.6 Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
- 5.1.7 Consulting potential suppliers if appropriate;
- 5.1.8 Drafting the terms and conditions that are to apply to the proposed contract;
- 5.1.9 Where the purchase is to be funded from mainstream capital or regarded as capital by the **Chief Finance Officer** it is submitted to the Chief Finance Officer for comment as soon as practicable;
- 5.1.10 Setting out these matters in writing if the Total Value of the purchase exceeds £50,000; and
- 5.1.11 Assessing any insurance requirement or bond to be included in accordance with the risk assessment outcomes.

and by confirming that:

- 5.1.12 There is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and schemes of delegation to **Cabinet members** and/or Officers as set out in the Constitution; and
- 5.1.13 If the purchase is a **Key Decision**, all appropriate steps have been taken.

## **6 RECORDS**

- 6.1 In all contractual arrangements the Officer responsible for letting the contract shall ensure that legal services is notified and any contract is stored within the Council's strong room.
- 6.2 Where the Total Value is less than £50,000, the following records must be kept:
- 6.2.1 A unique reference number (provided by the legal service before filing in the strong room) for the contract and the title of the contract;
  - 6.2.2 Invitations to Quote or Tender and Quotations or Tenders;
  - 6.2.3 A record:
    - (a) Of any exemptions and the reasons for them; and
    - (b) Of any Contracting Decision and the reasons for it including the evaluation of the Quotation or Tender.
  - 6.2.4 Written records of communications with all tenderers or an electronic record if a written record of the transaction would normally not be produced.
- 6.3 Where the Total Value exceeds £50,000 the Officer must record:
- 6.3.1 A unique reference number (from legal services) for the contract and the title of the contract;
  - 6.3.2 The method for obtaining bids (see Rule 8.1);
  - 6.3.3 Any Contracting Decision and the reasons for it;
  - 6.3.4 Any exemption under Rule 3 together with the reasons for it;
  - 6.3.5 The Award Criteria in descending order of importance;
  - 6.3.6 Tender documents sent to and received from Candidates;
  - 6.3.7 Pre-Tender market research;
  - 6.3.8 Any selection criteria relied upon;
  - 6.3.9 Any evaluation criteria relied upon;
  - 6.3.10 Clarification and post-Tender negotiation (to include minutes of meetings);
  - 6.3.11 The contract documents;
  - 6.3.12 Post-contract evaluation and monitoring; and

6.3.13 Communications with Candidates and with the successful contractor throughout the period of the procurement.

6.4 Records required by this rule must be kept for six years after the end of the contract.

## 7 ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS

7.1 Identifying and Assessing Potential Candidates.

7.1.1 Officers shall ensure that, where proposed contracts, irrespective of their Total Value, might be of interest to potential Candidates located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- (a) The Council's website;
- (b) Portal websites specifically created for contract advertisements;
- (c) A local or national newspaper or specialist publication; and
- (d) National official journals, Central Government **Contracts Finder** website <https://www.gov.uk/contracts-finder> /Tenders Electronic Daily (TED) or OJEU (even if there is no requirement within the EU Procedure). These can be placed by the Corporate Procurement Service.

7.1.2 Officers are responsible for ensuring that all Candidates for a Relevant Contract are suitably assessed. The assessment process shall establish that the potential Candidates have sound:

- (a) Economic and financial standing (to be confirmed with the finance team); and
- (b) Technical ability and capacity to fulfil the requirements of the authority.

7.1.3 This shall be achieved in respect of proposed contracts that are expected to exceed £100,000 by selecting firms from:

- (a) Approved Lists of providers, maintained by the authority or on its behalf, and compiled following responses to a public advertisement;
- (b) An open Tender process including this assessment; or

- (c) Shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.

7.1.4 Public advertisements issued over the EU Threshold shall reflect the potential degree of interest from Candidates located within other member states of the EU.

## 7.2 Framework Agreements

7.2.1 The term of a Framework Agreement must not exceed five years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

7.2.2 Contracts based on Framework Agreements may be awarded by either:

- (a) applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
- (b) by holding a mini competition in accordance with the terms and conditions of the Framework Agreement.

## CONDUCTING PURCHASE

### 8 COMPETITION REQUIREMENTS FOR PURCHASE AND PARTNERSHIP ARRANGEMENTS

The Officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the **Monitoring Officer**.

#### 8.1 Purchasing – Competition Requirements

8.1.1 Where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Shortlisting shall be done by the persons specified in the third column.

Total Value	Award Procedure	Shortlisting
Up to £10,000	One oral Quotation (confirmed in writing where the Total Value exceeds £500)	Officer
£10,001 – £50,000	At least three written Quotations	Officer and Line Manager



£50,001 - £100,000	Three written Quotations or invitation to Tender by advertisement/list to at least three Candidates	Officer and Line Manager
£100,001–EU Threshold	Three written Quotations or invitation to Tender by advertisement/list to at least three Candidates	Officer, Line Manager and Corporate Procurement Service
Above EU Threshold	EU Procedure or, where this does not apply, Invitation to Tender by advertisement/list to at least four Candidates	Consult the <b>Monitoring Officer</b> – see Rule 8.1.4.

8.1.2 Where it can be demonstrated that there are insufficient suitably qualified Candidates to meet the competition requirement, all suitably qualified Candidates must be invited.

8.1.3 An Officer must not enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these **Contract Standing Orders**.

8.1.4 Where the Total Value exceeds £100,000 the Corporate Procurement Service should be consulted prior to the commencement of the procedure and, where the EU Procedure is required, the Officer shall consult the **Monitoring Officer** to determine the method of conducting the purchase.

## 8.2 Providing Services to External Purchasers

The **Chief Finance Officer** must be consulted where contracts to work for organisations other than the authority are contemplated and any bid, Tender and contract for work shall be made in accordance with the **Financial Procedure Rules**.

## 8.3 Collaborative and Partnership Arrangements

Collaborative and partnership arrangements are subject to all procurement legislation and must follow these **Contract Standing Orders**. Officers must seek the advice of the **Monitoring Officer** and the Corporate Procurement Service.

## 8.4 The Appointment of Consultants to Provide Services

8.4.1 Consultant architects, engineers, surveyors and other professional Consultants shall be selected and commissions awarded in accordance with the procedures detailed within these **Contract Procedure Rules** and as outlined below.

Total Value	Award Procedure	Shortlisting
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Up to £50,000	One oral Quotation (confirmed in writing where the Total Value exceeds £5,000)	Officer and Line Manager
£50,001 – EU Threshold	Three written Quotations	Officer and Line Manager and procurement service
Above EU Threshold	EU Procedure or, where this does not apply, (such as where Part B Services under the EU Procedure), Invitation to Tender by advertisement/list to at least four and no more than six Candidates	Consult the <b>Monitoring Officer</b> see Rule 8.1.4

8.4.2 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.

8.4.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.

8.4.4 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the **Chief Finance Officer** for the periods specified in the respective agreement.

8.4.5 The instruction of external legal advisers must only be carried out by the **Monitoring Officer** and the instruction of counsel shall not be subject to the requirements of Rules 8.4.1 – 8.4.4 (inclusive)

## 9 PRE-TENDER MARKET RESEARCH AND CONSULTATION

9.1 The Officer responsible for the purchase:

9.1.1 May consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Candidate, but

9.1.2 Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition.

## 10 STANDARDS AND AWARD CRITERIA

- 10.1 The Officer must ascertain the standards necessary to properly describe the subject matter of the contract having regard to any relevant British, European or international standards. The **Monitoring Officer** must be consulted if it is proposed to use standards other than European standards.
- 10.2 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be one of the following:
- 10.2.1 'lowest price' where payment is to be made by the authority;
- 10.2.2 'highest price' if payment is to be received; or
- 10.2.3 'most economically advantageous', where considerations other than price also apply.

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, social value, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, aftersales services, technical assistance and any other relevant matters. Officers shall have regard to the Purchasing Guidance when defining the Award Criteria.

- 10.3 Award Criteria must not include:
- 10.3.1 Non-commercial Considerations; and
- 10.3.2 Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement, except where social value considerations can objectively be demonstrated.

## 11 INVITATIONS TO TENDER/QUOTATIONS

- 11.1 The Invitation to Tender shall state that the Council reserves the right to reject a Tender that is not received by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this requirement shall be considered without the **Monitoring Officer's** prior approval and shall not be considered under any circumstances when it is received after the other Tenders have been opened.
- 11.2 All Invitations to Tender shall include the following:
- 11.2.1 A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
- 11.2.2 A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).

- 11.2.3 A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
  - 11.2.4 Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
  - 11.2.5 A description of the Award Procedure and, unless defined in a prior advertisement, details of the Award Criteria in objective terms and if possible in descending order of importance.
  - 11.2.6 Tenders will normally be sought in accordance with an electronic tendering process approved by the Procurement Team in consultation with the **Chief Finance Officer** and **Monitoring Officer** and a statement that any Tenders submitted by fax or other electronic means shall not be considered.
- 11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 18).
- 11.4 The Invitation to Tender or Quotation may state that the Council is not bound to accept any or all of any Quotation or Tender.

## **12 SHORTLISTING**

- 12.1 Shortlisting must have regard to the financial and technical standards relevant to the contract and the Award Criteria.
- 12.2 The Officers responsible for Shortlisting are specified in Rule 8.1.1.
- 12.3 Where Approved Lists are used, Shortlisting may be done by the Officer in accordance with the Shortlisting criteria drawn up when the Approved List was compiled (see Rule 7.2). However, where the EU Procedure applies, Approved Lists may not be used.

## **13 SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**

- 13.1 Candidates must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The EU Procedure lays down specific time periods (see guidance in the Purchasing Guidance).
- 13.2 All Tenders must be returned in accordance with the Invitation to Tender. Particular note should instruct tenderers not to place any mark on the envelope as set out in the invitation to tender.
- 13.3 Tenders will normally be sought in accordance with an electronic tendering process approved by the Procurement Team in consultation with the **Chief Finance Officer**

and **Monitoring Officer** and tenders received by fax or other electronic means (e.g. email) must be rejected.

- 13.4 The Officer must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of Tenders.
- 13.5 The Corporate Procurement Service shall be responsible for the safekeeping of Tenders until the appointed time of opening. Each Tender must be:
  - 13.5.1 Suitably recorded so as to subsequently verify the date and precise time it was received;
  - 13.5.2 Adequately protected immediately on receipt to guard against amendment of its contents; and
  - 13.5.3 Recorded immediately on receipt in the Tender Record Log.
- 13.6 The Officer must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two Officers, independent of the procuring Officer.
- 13.7 Upon opening, a summary of the main terms of each Tender must be recorded in the Tender Record Log.
- 13.8 Quotations and Tenders received after the specified closing date should be returned and the Head of Service shall inform the tenderer that their Tender or Quotation was disqualified from consideration by being received after the closing date (unless the tenderer is able to prove that the Tender should have been delivered by the closing date and through no fault of its own the receipt was delayed).

## **14 CLARIFICATION PROCEDURES**

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Candidates or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. If clarification is provided to one Candidate, then this must also be copied to the other Candidates. However, discussions with tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-Tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price.

## **15 EVALUATION**

- 15.1 Apart from the debriefing required or permitted by these **Contract Standing Orders**, or Regulations, the confidentiality of Quotations, Tenders and the identity of Candidates must be preserved at all times and information about one Candidate's response must not be given to another Candidate.
- 15.2 Contracts must be evaluated and awarded in accordance with the Award Criteria. During this process, Officers shall ensure that submitted Tender prices are compared

with any pre-Tender estimates and that any discrepancies are examined and resolved satisfactorily.

- 15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the Tenderer, who should be requested to confirm, clarify or withdraw their Tender. If the rates in the Tender, rather than the overall price, were stated within the Tender invitation as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.
- 15.4 In the event that Tender prices exceed the budget the Chief Finance Officer must be notified and no further action taken without notification in writing from the Chief Finance Officer as to how to proceed.

## **16 POST TENDER NEGOTIATIONS**

- 16.1 If post Tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the tenderer that is identified as having submitted the best/most economically advantageous Tender and after all unsuccessful Candidates have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the Head of Service to carry out post Tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 16.2 Post-Tender negotiation must only be conducted in accordance with the guidance issued by the **Monitoring Officer** who, together with the Corporate Procurement Service, must be consulted wherever it is proposed to enter into post Tender negotiation. Negotiations must be conducted by a team of at least two Officers, one of whom must be from a division independent to that leading the negotiations.
- 16.3 Where post-Tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

## **17 AWARD OF CONTRACTS AND FRAMEWORK AGREEMENTS AND DEBRIEFING CANDIDATES**

- 17.1 Heads of Service may accept Quotations and tenders received in respect of proposed contracts and Framework Agreements, provided they have been sought and evaluated fully in accordance with these **Contract Procedure Rules** and, in respect of proposed contracts and Framework Agreements that are expected to exceed £250,000, with the approval of the **Chief Executive** and **Chief Finance Officer**.
- 17.2 For contracts and Framework Agreements subject to the EU Procedure, the Officer must notify all Candidates simultaneously and as soon as possible of the intention to award the contract or Framework Agreement to the successful Candidate and provide a standstill letter as required by the Regulations specifying the name(s) of the successful Candidate(s), the Award Criteria and the reasons for the decision including the score of the Candidate being debriefed and the successful Candidate(s)

and the characteristics and relative advantages of the successful Tender. The Officer must provide unsuccessful Candidates with a period of at least ten clear days (fifteen where letters are sent by post rather than electronically) in which to challenge the decision before the Officer awards the contract or Framework Agreement. If the decision is challenged by an unsuccessful Candidate then the Officer shall not award the contract or Framework Agreement and shall immediately seek the advice of the **Monitoring Officer**. It is good procurement practice to provide standstill letters with the outcome of the process even where this is not legally required.

- 17.3 If a Candidate requests in writing the reasons for a Contracting Decision, the Officer must give in writing the name(s) of the successful Candidate(s), the Award Criteria and the reasons for the decisions including the score of the Candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful Tender within 15 days of the request. If requested, the Officer must also give the debriefing information referred to in Rule 17.2 above to Candidates who were unsuccessful in a pre-qualification Shortlisting process.

## **CONTRACT AND OTHER FORMALITIES**

### **18 COMPLIANCE WITH LEGISLATION**

- 18.1 There must be compliance with all laws relevant to procurement and the public sector including but not limited to the Public Contracts Regulations 2015, the Equality Act 2010, the Bribery Act 2010, the Public Services (Social Value) Act 2012, Freedom of Information Act 2005 and the Data Protection Act 2018 and any relevant government guidance relating to procurement.

### **18.2 EQUALITIES AND DIVERSITY**

The authority is committed to equal opportunities in all aspects of its operation and encourages suppliers and contractors to implement similar policies. It is therefore a requirement that all prospective contractors are able to demonstrate their compliance with the authority's policies in this respect.

In every written contract for the execution of work or the supply of goods or materials, the following clauses shall be inserted:

- "1.1 The [Contractor] shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in age, race, gender, religion, disability, sexual orientation or otherwise) in employment and shall have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 1.2 The [Contractor] shall take all reasonable steps to secure the observance of *clause 1.1* by all servants, employees or agents of the [Contractor] and all suppliers and sub-contractors employed in performance of this agreement."

### **18.3 PREVENTION OF CORRUPTION**

18.3.1 The Officer needs to be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the new corporate offence of failing to prevent bribery; and the authority's Anti-Money Laundering, Anti-Fraud and Corruption Strategy.

18.3.2 The Officer must comply with the **Code of Conduct for Officers** and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime.

18.3.3 The following clause must be put in every written authority contract:

"The Council may terminate this contract and recover all its loss if the [Contractor], any of its employees or anyone acting on the [Contractor's] behalf does any of the following things:

- (a) To directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:
  - (i) Induce that person to perform improperly a relevant function or activity; or
  - (ii) Reward that person for improper performance of a relevant function or activity;
- (b) To directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) Committing any offence:
  - (i) Under the Bribery Act;
  - (ii) Under legislation creating offences concerning fraudulent acts;
  - (iii) Under money laundering legislation;
  - (iv) At common law concerning fraudulent acts relating to this Agreement or any other contract with the Authority; or
  - (v) Defrauding, attempting to defraud or conspiring to defraud the Council."

#### 18.4 HEALTH AND SAFETY

18.4.1 The authority is committed to ensuring the health, safety and welfare of its employees, contractors' staff, the public and all others affected by its undertakings. All contractors will therefore be expected to demonstrate compliance with all relevant health and safety legislation and to submit their health and safety policies and procedures, along with confirmation of their level of public and employee liability insurance cover.



18.4.2 The following clause must be put in every written authority contract:

- “1.1 The [Contractor] must comply with relevant health and safety legislation, including health and safety regulations and relevant codes of practice that are approved by the Health and Safety Executive.
- 1.2 The [Contractor] must comply with the authority’s health and safety policies”.

## **19 CONTRACT DOCUMENTS**

### **19.1 Relevant Contracts**

19.1.1 All Relevant Contracts<sup>1</sup> shall be in writing.

19.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

- (a) What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- (b) The provisions for payment (i.e. the price to be paid and when);
- (c) The time, or times, within which the contract is to be performed; and
- (d) The provisions for the Council to terminate the contract.

19.1.3 The Council’s standard terms and conditions or standard contract forms issued by a relevant professional body must be used wherever possible.

19.1.4 In addition, every Relevant Contract of purchase over £50,000 must also state clearly as a minimum:

- (a) That the contractor may not assign or sub-contract without prior written consent;
- (b) Any insurance requirements;
- (c) Data protection requirements, if relevant;
- (d) Freedom of Information Act requirements;
- (e) A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant;
- (f) Clauses in relation to equalities and diversity, prevention of corruption, and health and safety in accordance with clause 18 above.

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<sup>1</sup> Previously only required contracts over £50k to be in writing – we would expect all contracts to be in writing, even low value exchanged by e-mail.

19.1.5 The formal advice of the **Monitoring Officer** must be sought for the following contracts:

- (a) Where the Total Value exceeds £100,000;
- (b) Those involving leasing arrangements;
- (c) Where it is proposed to use a supplier's own terms; or
- (d) Those that are complex in any other way.

## 19.2 Contract Formalities

19.2.1 Agreements shall be completed as follows:

Total Value	Method of Completion By
Up to £50,000	signature Authorised Signatory
Above £50,000	Authorised Signatory or sealing see Rule 19.3

19.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the **Monitoring Officer**.

19.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

## 19.3 Sealing

19.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be executed by the fixing of the Council's seal, and must be witnessed by an Authorised Signatory.

19.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

19.3.3 A contract must be sealed where:

- (a) The Council may wish to enforce the contract more than six years after its end;
- (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;
- (c) There is any doubt about the authority of the person signing for the other contracting party; or

(d) The Total Value exceeds £100,000

unless otherwise agreed by the **Monitoring Officer**.

## **20 BONDS AND PARENT COMPANY GUARANTEES**

20.1 The Officer must consult the **Chief Finance Officer** about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and:

20.1.1 The Total Value exceeds £250,000, or

20.1.2 Award is based on evaluation of the parent company; or

20.1.3 There is some concern about the stability of the Candidate.

20.2 The Officer must consult the **Chief Finance Officer** about whether a Bond is needed:

20.2.1 Where the Total Value exceeds £1,000,000; or

20.2.2 Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Candidate; and

20.2.3 In such other circumstances where it is considered appropriate by the Chief Finance Officer.

## **CONTRACT MANAGEMENT**

### **21 MANAGING CONTRACTS**

21.1 Heads of Service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.

21.2 Contract managers must follow the procedures set out in the Council's Purchasing Guidance.

### **22 RISK ASSESSMENT AND CONTINGENCY PLANNING**

22.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

22.2 For all contracts with a value of over £100,000, contract managers must consider maintaining a risk register during the contract period, undertake appropriate risk assessments and for identified risks ensure contingency measures are in place.

### **23 CONTRACT MONITORING, EVALUATION AND REVIEW**

- 23.1 All contracts which have a value higher than the relevant EU Threshold limit, and which are High Risk, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the **Chief Finance Officer**.
- 23.2 For all contracts with a value higher than the EU Threshold limits, and which are High Risk, an annual report must be submitted to the Project Board (if any).
- 23.3 During the life of the contract, the Officer must monitor in respect of:
- 23.3.1 Performance;
  - 23.3.2 Compliance with specification and contract;
  - 23.3.3 Cost;
  - 23.3.4 Any Value for Money requirements; and
  - 23.3.5 User satisfaction and risk management.

## DEFINITIONS

The following terms are used within these Contract Standing Orders:

Approved List	A list drawn up in accordance with Rule 7.1.
Authorised Signatory	The <b>Monitoring Officer</b> or an officer authorised by the Monitoring Officer in accordance with the Council's constitution to sign a contract or witness affixing the Council's seal.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2.5).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to economy, efficiency and effectiveness as implemented by the Council.
Candidate	Any person who seeks to or is invited to submit a Quotation or Tender.

Consultant	Specialist advisers engaged to provide services to the Council.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> <li>• Withdrawal of Invitation to Tender;</li> <li>• Whom to invite to submit a Quotation or Tender;</li> <li>• Shortlisting;</li> <li>• Award of contract or Framework Agreement any decision to terminate a contract.</li> </ul>
Corporate Contract	A contract let by the Council under which purchases may be called off from time to time.
Corporate Procurement Service	The Council's central procurement unit charged with providing strategic direction and advice to secure Value for Money in the Council's procurement activities.
Council(s)	Havant Borough Council and East Hampshire District Council or either of them.
EU Procedure	The procurement procedure required by the EU where the Total Value exceeds the EU Threshold.
EU Threshold	The contract value at which the EU public procurement directives apply, currently: <ul style="list-style-type: none"> <li>Supplies and services: £189,330;</li> <li>Works/Works concessions: £4,733,252;</li> <li>Light touch regime: £663,540.</li> </ul>
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

High Risk	A high-risk purchase that is in the opinion of the <b>Chief Finance Officer</b> one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
Invitation to Tender	Invitation to Tender documents in the form required by these <b>Contract Standing Orders</b> .
Line Manager	The Officer's immediate superior or the Officer designated by the Head of Service to exercise the role reserved to the Line Manager by these <b>Contract Standing Orders</b> .
Nominated Suppliers and Sub-contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	<p>(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters');</p> <p>(b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;</p> <p>(c) Any involvement of the business activities or interests of contractors with non relevant fields of government policy;</p> <p>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes');</p> <p>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;</p> <p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or</p>

	<p>from which the authority gives or withholds support; and</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.</p> <p>Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be Non-commercial Considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.</p> <p>Insofar as matters relate to the Council's social value duty they are not Non-commercial Considerations,</p>
Officer	The Officer designated by the Head of Service to deal with the contract in question. Usually an employee.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next few years.
Purchasing Guidance	The guidance documents issued from time to time by the s151 Officer that support the implementation of these contract procurement rules. The guide is available on the Council's intranet.
Quote/Quotation	A Quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these <b>Contract Procedure Rules</b> apply (see Rule 4).

Shortlisting	The process of selecting Candidates who are to be invited to Quote or bid or to proceed to final evaluation.
Tender	A Candidate's proposal submitted in response to an Invitation to Tender.
Tender Record Log	The log kept by the director of resources to record details of Tenders (see Rule 13.5).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <p>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;</p> <p>(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;</p> <p>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48; and</p> <p>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</p> <p>For Nominated Suppliers and Sub-Contractors, the Total Value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-Contractor.</p>
TUPE	<p>Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246) Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of</p>



	employees are transferred along with the business.
Value for Money	Value for Money is not the lowest possible price; it is the most economically advantageous proposal that combines goods or services or works that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price. Whole life costing should be considered (e.g. lower maintenance costs can outweigh a difference in the initial cost) over a period of time or the useful life of the asset.

# Part Four

## Codes and Protocols

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**Section A: Code of Conduct for Officers**

**Section B: Code of Conduct for Councillors and Arrangements for dealing with alleged breaches of the Code**

**Section C: Councillor/Officer Protocol**

**Section D: Councillors' Planning Code of Conduct**

# Part Four, Section A

## Code of Conduct for Officers

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### INTRODUCTION

1. The public is entitled to demand and expect that local government employees will conduct themselves at the highest standard and with complete integrity. Officers are expected to demonstrate political neutrality when dealing with members of the public or elected **Councillors**.
2. The purpose of this code is to assist officers to understand what is expected of them. Observance of this code will help to maintain and improve standards and protect officers from misunderstanding or criticism.

### Who is the Code aimed at?

3. This Code applies to all employees of Havant Borough Council.
4. Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.
5. If officers require further advice, assistance or clarification of any information contained within this code, please refer to your manager, or contact the HR team or the Monitoring Officer.
6. This code seeks to recognise the challenges that officers face in an increasingly commercially orientated environment (e.g. **local authority companies**, trusts, joint partnership ventures etc.). There has always been a demand for transparency in local government and so ensuring that all officers are aware of, and adhere to, this code helps to maintain and promote high standards of conduct.

### STANDARDS

7. Officers are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to **Councillors** and fellow employees with impartiality.
8. Officers will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any concerns that they have about the provision of services.
9. Officers should report to their manager any improper action or breach of procedure. Please see the Whistle Blowing Policy for assistance on how to raise matters which are of concern.

## DISCLOSURE OF INFORMATION

10. It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, Auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Employees must be aware of which information Havant is and is not open about, and act accordingly.
11. The Council operates on a presumption of transparency and openness. Council reports will be in the public domain unless there are good reasons for keeping them confidential.
12. The Council must comply with the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR). However, officers must take care not to disclose confidential information and should seek guidance from their manager if in doubt about any item.
13. The General Data Protection Regulation (GDPR) has six key principles:
  - a. Lawfulness, fairness and transparency
  - b. Purpose limitation
  - c. Data minimization
  - d. Accuracy
  - e. Storage limitation
  - f. Integrity and confidentiality (security)
14. All officers receive training in GDPR and further information can be found on the Council's intranet.
15. Officers should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a **Councillor** which is personal to that Councillor and does not belong to the Council should not be disclosed by the officer without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

## POLITICAL NEUTRALITY

16. Officers serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
17. Employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

18. Officers are, of course, entitled to maintain their own political views but must not allow these views to impact on the work they do. In some cases posts will be **politically restricted**.
19. The Council is required to maintain a list of posts that are subject to restriction on political activity and this list is available from the HR team.

### **CONDUCT OF STAFF IN PRE-ELECTION PERIOD**

20. Prior to any election there will be a “pre-election period” which is notified to all officers of the Council.
21. Officers will be required to follow guidance issued by the Monitoring Officer during the pre –election period.

### **RELATIONSHIPS**

22. No special favour may be shown to friends, partners, and relatives or to current or former employees. Officers must disclose to their manager all personal relationships, whether of a business or private nature, which might have the potential to bring about a conflict of interest between their work and those with whom they have a personal relationship.
23. Examples of personal relationships which may give rise to conflicts of interest in the workplace include:
  - a. a family relationship;
  - b. a business/commercial/financial relationship;
  - c. a close personal friendship;
24. However, personal relationships are not restricted to these examples and if officers are concerned about a potential conflict of interest, they should discuss this with their manager.

### **COUNCILLORS**

25. Officers are responsible to the Council through the **Executive Leadership Team**.. For some officers, their role is to give advice to **Councillors**. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other officers and Councillors and should, wherever reasonable and possible, be avoided.
26. Havant has adopted a Member/Officers relations protocol contained within the Constitution which employees are expected to take into account in their dealings with Councillors.

## **THE LOCAL COMMUNITIES AND SERVICE USERS**

27. Officers should always remember their responsibilities to the communities they serve and ensure courteous, efficient and impartial service delivery to all within those communities, as set out in the policies of the Council.

## **CONTRACTORS**

28. All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager
29. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favours should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.
30. Officers who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, must declare that relationship in writing to their manager.
31. Officers must fully comply with the Council's [Financial Procedure Rules](#) and [Contract Procedure Rules](#).

## **APPOINTMENTS AND OTHER EMPLOYMENT MATTERS**

32. Officers involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with them.
33. Similarly, officers should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc. or with whom they have (or have had) a personal relationship. For the avoidance of doubt, officers should not have managerial responsibility for a relative, partner etc
34. The Council has detailed procedures for managing staff which must be followed in all cases relating to supervision or recruitment. The HR team is available to offer assistance and advice on such matters.

## **OUTSIDE COMMITMENTS**

35. Some officers have conditions of service which require them to obtain written consent to take on any other outside employment. All officers should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests, and/or which has not been the subject of written consent. Please speak with your manager or HR about any other employment activity and before you make any decisions on the matter.

36. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.
37. Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

## **PERSONAL INTERESTS**

38. Officers are required to declare an interest if they are involved in anything outside of work which could lead to a situation where they might reasonably be influenced to make a decision or to take an action at work which is not in the Council's best interests, or which shows favouritism to a certain person or body.
39. Non-financial interests
  - a. Officers must declare to their manager any non-financial interests that they have, such as directorships of companies, trusteeships, governorships, voluntary roles (e.g. secretary, treasurer, coach) or positions of management or control in other organisations (e.g. clubs, societies, associations, charities), or any family connections with other businesses or organisations that may do business with the Council.
  - b. Such declarations should be made annually on the declaration of interests form which can be found on the Council's intranet, including a "nil" return.
40. Financial interests
  - a. Officers must declare to their manager any financial interests which they have such as directorships, trusteeships, partnerships, or family connections with other businesses or organisations that may do business with the Council and from which they gain income or other material benefit.
  - b. Such declarations should be made annually on the declaration of interests form which can be found on the Council's intranet, including a "nil" return.
41. The declaration of interest form should be completed as soon as possible after an officer becomes aware they have an interest and no later than 28 days after they become aware of it. Failure to disclose such interests may lead to disciplinary action being taken.

## **EQUALITIES**

42. All individuals have a right to be treated with fairness and equity. Officers should ensure that policies relating to equality issues as agreed by the Council are complied with in addition to the requirements of the law.

## **CORRUPTION**

43. Officers must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.
44. Corruption would include receiving or giving any payment, gift (other than a gift of a nominal value), hospitality, or any other benefit from any person or organisation who an officer deals with in their work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an officer or to the officer's family or friends.
45. Any case of suspected corruption will be fully investigated and any proven cases will be treated as gross misconduct and criminal prosecutions undertaken.

#### Use of Financial Resources

46. Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority

#### **GIFTS AND HOSPITALITY**

47. Officers must be aware that the offering and acceptance of gifts could result in criminal proceedings (under the Bribery Act 2010). It is obviously wrong for an officer to accept inducements for personal gain in exchange for treating a client or contractor favourably. On the other hand, it would be churlish to refuse minor items which are of only nominal value.

#### **Gifts**

48. Officers should refuse gifts made to them personally, or to a family member, by a person or organisation which has, or seeks, dealings with the authority. Excepted from this rule are minor promotional gifts distributed to a wide range of people and not uniquely to one officer (e.g. pens, calendars, diaries etc. given usually at Christmas time for use in the office) of up to £10 in value, or gifts given in thanks for good service, such as a box of chocolates, plant or flowers up to the value of £10. Officers should not in any circumstances accept gifts from suppliers if the provision of the gift may reasonably be perceived as an incentive to purchase.
49. All gifts above this value should be refused. Where it is felt that this will cause embarrassment, officers should explain to the donor that they are not able to accept such gifts, and thank the donor for their kindness, nonetheless. If received by post, officers should return the gift to the donor with a polite email making it clear that no individual has gained personal advantage from the gift.
50. If an officer is in any doubt they should seek advice from their manager.

#### **Hospitality**

51. Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely



social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised and recorded.

52. Invitations to lunch or some other function from a person or organisation which has or is seeking dealings with the Council must be treated with care. A modest working lunch to discuss business or attendance at a reception or promotion which is proportionate and not extravagant, and which has been approved by an officer's manager is acceptable.
53. When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
54. When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
55. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
56. Examples of offers which must be refused include:
  - a. an overnight stay at a hotel
  - b. holidays or hotel accommodation
  - c. theatre tickets
  - d. membership of clubs
  - e. regular or frequent acceptance of corporate hospitality, particularly from the same source
  - f. hospitality in the immediate period before tenders are invited or during the tender process
  - g. hospitality unconnected to work, even if the hospitality is taken in the Officer's own time
  - h. hospitality which the Officer or their manager thinks is lavish, extravagant or excessive, even if the hospitality is taken in the Officer's own time
57. If Officers are aware that hospitality will be offered at a meeting or event, they should discuss it with their manager beforehand, and if approved, make the necessary declaration prior to attending. Otherwise, all offers of hospitality should be declared as soon as possible after the event.

58. If Officers are in any doubt, they should seek advice and approval from their manager.

### **Register**

59. All offers of gifts and / or hospitality must be recorded on a form which can be found on the Council's intranet. The form requires that the date of any offers of gifts/hospitality must be included, together with the financial value of it, and the name of the donor. Also, the reasons for acceptance of any gift or hospitality must be included on the form. The form must be approved by an officer's manager and in the case of the Chief Executive Officer, by the Monitoring Officer.

### **Bribery Act 2010**

60. The Bribery Act 2010 is intended to combat bribery and corruption in both the public and private sectors. The Council is required to have "adequate procedures" in place to prevent bribery. Officers are at risk of prosecution if they conduct themselves in a way that may be seen as condoning bribery. Officers should be aware that "passive" bribery is a specific offence and includes requesting, agreeing to receive or accepting an advantage.
61. There are serious penalties for offences committed under the Act, including a maximum jail sentence of 10 years for individuals engaged in bribery. Accordingly, officers should refrain from any conduct that may appear to engage the Act. Officers should not, for example, accept any payment, gift or hospitality that is, or could be perceived to be, "facilitative" of an action that an employee would normally carry out, such as granting a licence or approving a planning application.

### **Sponsorship – Giving and Receiving**

62. Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, officers should ensure that impartial advice is given and that there is no conflict of interest involved.

### **BREACH OF THIS CODE OF CONDUCT**

63. Breach of this Code may amount lead to disciplinary proceedings being brought against the officer concerned.

**Part Four, Section B**  
**Code of Conduct for Councillors**  
**Including Arrangements for Handling**  
**Complaints**

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## **Arrangements for dealing with allegations that a Member has failed to comply with the relevant Code of Conduct**

### **BACKGROUND**

Under Section 28 of the Localism Act 2011, Havant Borough Council must have in place “arrangements” under which allegations that an elected or co-opted member of the authority or of a council within the authority’s area (hereinafter referred to as the ‘subject member’) has failed to comply with the authority’s Code of Conduct can be considered and decisions made on such allegations.

These arrangements provide for the council to appoint at least one Independent Person whose views must be sought by the council before it takes a decision on an allegation that it has decided to investigate, and whose views can be sought by the council at any other stage, or by the subject member against whom an allegation has been made.

The council has adopted a Members’ Code of Conduct, which is published on the council’s website and is available for inspection on request from the council’s office (see below).

### **MAKING AN ALLEGATION AND INITIAL ASSESSEMENT**

1. All allegations, that a Councillor has failed to comply with the requirements of the Code of Conduct must be made in writing to the Monitoring Officer<sup>1</sup>.
2. An allegation may be sent by email, or other media, with any supporting information to the Monitoring Officer. A form for this purpose is available on the Council’s website.
3. Anonymous complaints will not normally be investigated, and will only be accepted in exceptional circumstances where the Monitoring Officer concludes that the balance of the public interest lies in doing so, and the fairness of the procedure is maintained.
4. As a matter of fairness and natural justice and in order to preserve the probative value of any evidence given, the Subject Member will usually be told who has complained about them and receive details of the complaint.
5. The allegation must be that the Councillor(s) has or may have breached the Code of Conduct.
6. The Monitoring Officer may refer the matter to the standards committee to take the decision in his or her place and he or she may delegate the matter to his or

her deputy(ies) or another officer if, for example he or she believes there is a conflict of interest. This power is at the discretion of the Monitoring Officer.

7. The Monitoring Officer will apply an initial filter to an allegation. The complaint will be assessed by the Monitoring Officer against the Initial Assessment Criteria as follows:-
- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
  - (b) Was the Subject Member a member of the Borough Council at the time of the alleged conduct?
  - (c) Was the Subject Member acting in an official capacity as a councillor at the time of the alleged conduct? (The case law and legislative position is that Code of Conduct matters can only be dealt with when the allegation is about something that a Councillor did in his or her role as a councillor when acting in an official capacity.)
  - (d) Did the alleged conduct occur when the Subject Member was acting as a member of another authority?
  - (e) If the facts, could be established, as a matter of evidence, could or would the alleged conduct be capable of a breach of the Code of Conduct?
  - (f) Is the complaint limited to dissatisfaction with the Borough Council's decisions, policies and priorities, etc.?

If the complaint fails one or more of the initial jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected.

It is generally considered that complaints relating to the consideration of planning and/or licensing applications will not be dealt with under these Arrangements if there is an alternative legal remedy. The Council has no authority to deal with complaints which relate solely to a member's private life or things they do which are not related to their role as a member.

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<sup>1</sup> As defined by the Local Government & Housing Act 1989, Part 1, Section 5

8. Complaints which identify criminal conduct or breach of other regulations by any person may be referred by the Monitoring Officer to Hampshire Police for consideration, or any other regulatory agency. In such cases the Monitoring Officer may at his or her discretion pause the consideration of the complaint pending action by the other body or commence a parallel investigation into the alleged Code of Conduct breach.
9. Complaints by a councillor about another councillor(s) will be referred by the Monitoring Officer to the relevant group leader(s) for resolution in the first place. If either the Subject Member or the complainant declines to engage with this informal process, or resolution is not possible, within 10 working days from the date of receipt of the complaint, the Monitoring Officer will progress from paragraph 7 below. (For the avoidance of doubt, group leaders do not take on the functions of the Monitoring Officer in this process, which is purely an informal process which has the aim of resolving 'councillor-against-councillor' complaints at the earliest opportunity and reducing the resolution time for complaints).
10. If the Monitoring Officer decides the matter is within scope of these Arrangements, he or she will invite an Independent Person <sup>2</sup> to give his or her views on what action should be taken at this stage. That Independent Person will then remain the Independent Person who will be consulted on that case throughout this process, except in exceptional circumstances.
11. Where a complaint is accepted by the Monitoring Officer, the Monitoring Officer will notify the subject member of the complaint unless there are compelling reasons not to and invite him/her to submit any relevant comments. The subject member will be given 10 working days to respond, from the date of the notification. However, the Monitoring Officer, in consultation with an Independent Person, may withhold the complainant's identity if they can be satisfied that there are reasonable grounds for granting confidentiality, for example a belief that the complainant or any witness to the complaint may be at risk of physical harm or intimidation, or that their employment may be jeopardised if their identity is disclosed.
12. At the end of the 10 working days (regardless of whether any comments have been received by the subject member), and no later than 20 working days from the date of receipt of the complaint, the Monitoring Officer will decide upon one of the following outcomes:
  - a) to take no further action;
  - b) to seek to resolve the matter informally; or
  - c) to refer the matter for investigation.

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<sup>2</sup> The Independent Person is a person who has applied for the post and is appointed by Councillors of the Council. The definition of an Independent Person can be found in Section 28 of the Localism Act 2011.

13. In deciding what action is necessary the Monitoring Officer will consider the following non-exclusive factors:
  - a) whether the complaint contains sufficient evidence to demonstrate a potential breach of the Code;
  - b) whether there are alternative, more appropriate, remedies that should be explored first;
  - c) where the complaint is by one member against another, a greater allowance for robust political debate (but not personal abuse or “unparliamentary” language) may be given;
  - d) whether the complaint is in the view of the Monitoring Officer malicious, politically motivated, or ‘tit for tat’?;
  - e) whether an investigation would not be in the public interest or the matter, even if proven, would not warrant any sanction;
  - f) whether a substantially similar complaint has previously been considered and no new material evidence has been submitted to support the new complaint;
  - g) whether a substantially similar complaint has been submitted and accepted;
  - h) whether the complaint relates to conduct in the distant past (over three months prior to the date of submission of the complaint). This would include assessing any reason why there had been a delay in making the complaint;
  - i) whether the complaint actually relates to dissatisfaction with a council decision rather than the specific conduct of an individual;
  - j) whether the complaint relates to someone who is no longer a member of the council or who is seriously ill; and
  - k) where the matter complained of consists of alleged misconduct in the course of a formal council meeting, whether the matter had already been dealt with satisfactorily during the meeting.
14. All parties will be notified of the Monitoring Officer’s decision and there is no internal right of appeal against that decision.
15. A decision notice will not be published at this stage though the council may issue a public statement if details of the complaint are already in the public domain.
16. The Monitoring Officer will report to the standards committee periodically on cases in which there has been no further action taken.

### **Informal resolution**

17. Where the Monitoring Officer has decided to seek to resolve the matter informally, he or she may do one or more of the following:
  - a) ask the subject member to submit an apology in writing to the complainant;
  - b) convene a meeting between the subject member and the complainant in order to try to resolve the issue informally;
  - c) notify the subject member’s group leader (where they are a member of a group) and suggest that they may wish to take some internal party action;

- d) suggest that the subject member undergo relevant training;
  - e) other such action that the Monitoring Officer deems appropriate.
18. The Monitoring Officer will decide on a timeframe within which the informal resolution must be completed to an acceptable standard.
  19. If either the subject member or complainant refuses to engage with the informal resolution proposed by the Monitoring Officer, or the Monitoring Officer deems the action taken by the member to be insufficient or the informal resolution does not take place in a timely way, the Monitoring Officer will decide, in consultation with an Independent Person, whether the case should be closed, whether an investigation is necessary, or whether some other action should be taken.
  20. The Monitoring Officer will notify the complainant of the outcome of the informal resolution.
  21. The Monitoring Officer will report to the Standards Committee periodically on the outcome of any informal resolutions proposed and/or implemented.

### **Investigation**

22. Where a matter is referred for investigation, the Monitoring Officer may carry out the investigation him/herself, delegate it to another officer or appoint an external investigator.
23. The Investigating Officer may make such inquiries as they think necessary or expedient for the purposes of conducting the investigation, and may request any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.
24. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Member. The Subject Member will be advised that they may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish. Any accompanying person must either be under a professional duty of confidentiality (a solicitor or legal representative) or have signed a confidentiality agreement in respect of any information disclosed during the interview or hearing that is not in the public domain.
25. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required. It is anticipated that in the majority of cases this shall be within a 3 month period.



26. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Member and the Complainant for review and comment and will indicate that it does not necessarily represent the Investigating Officer's final conclusion.
27. If the Investigating Officer issues a draft report, the investigator will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report.
28. The Investigating Officer's final report will include all relevant documents, and copies of all witness statements obtained during the investigation. The report will commence with a statement of the Investigating Officer's conclusion. The conclusion will indicate if the evidence supports a failure to comply with the Code of Conduct.
29. The Investigating Officer will submit the final report to the Monitoring Officer. Where the investigation has not been personally conducted by the Monitoring Officer, the final decision as to outcome will nevertheless be made by the Monitoring Officer unless there is a conflict of interest, in which case the decision will be taken by a Deputy Monitoring Officer.
30. At any time during the investigation the Monitoring Officer, the subject member or the complainant may ask for an informal resolution. The Monitoring Officer will consult with the relevant IP to agree this.
31. There may be exceptional circumstances when the Monitoring Officer decides that a case should be closed before a draft or final report has been produced due to a significant change in circumstances. This may include, for example that the subject member is seriously ill or is no longer a member or other action has led to the matter being resolved. In such cases the Monitoring Officer should consult the Independent Person before deciding that the file be closed. A record of the complaint will be kept on file in the event that the subject member returns to office in the future and a subsequent complaint is lodged against them.
32. At the end of the investigation the Monitoring Officer may conclude:
  - a) that there has been no breach of the Code;
  - b) to seek to resolve the matter informally; or
  - c) to refer the matter to the Standards Committee for determination.
33. In cases where the Monitoring Officer has concluded that there has been no breach of the Code all parties will be notified of the Monitoring Officer's decision and there is no right of appeal against that decision. The Monitoring Officer will report the finding to the standards committee and issue a public decision notice.
34. Where the Monitoring Officer decides to seek to resolve the matter informally, he or she shall seek the views of the Independent Person and complainant

before concluding whether such an outcome is appropriate. The possible actions are those outlined above at paragraph 14. If the subject member or complainant refuses to engage with the informal action directed by the Monitoring Officer, the Monitoring Officer deems the action taken by the Member insufficient or the informal action does not take place in a timely way the Monitoring Officer will decide, in consultation with the Independent Person, whether the case should be closed or whether a hearing is necessary. The Monitoring Officer will notify the complainant of the outcome of the informal action.

35. Where the matter is referred for determination, the Standards Hearing Sub-Committee will convene within 2 months. The Monitoring Officer will notify the complainant of the date of the hearing.

### **PRE-HEARING PROCEDURE**

36. Where an investigation report indicates that there has been a breach of the Code of Conduct and the matter cannot otherwise be resolved by local resolution, a hearing will be arranged within three months of receipt. The hearing will be a meeting of the Committee convened specifically for that purpose.
37. A copy of the investigation report will be sent to the Subject Member, the complainant, the Chair or Vice Chair of **Standards Committee**.
38. The Subject Member may provide written response within 15 working days, which response shall set out the Subject Member's reply to the Investigating Officer's report and shall state if they:
  - Disagree with any of the findings of fact in the report, giving the reasons for any disagreement
  - Wish to be accompanied at a hearing by any person
  - Wish to give evidence to the Committee, either orally or in writing
  - Wish to ask any person to give evidence to the Committee
  - Wish any part of the hearing to be held in private
  - Wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
39. The Subject Member shall be informed that if, at the meeting of the Committee, they seek to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.
40. Upon receipt of the Subject Member's response, the Investigating Officer shall be invited to comment on it within ten working days. If the report is disputed the

investigating officer must indicate if they are appointing another officer or person to be present the evidence upon which the report was based.

41. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Subject Member and the Investigating Officer and set a date for the hearing in consultation with the Chair of the Committee.
  
42. If the Subject Member has indicated they wish a person to attend to give evidence the **Standards Committee** may in its absolute discretion agree to hear from that person. A question may only be asked with the permission and absolute discretion of the Chair of the Committee.
  
43. Nothing in this procedure shall limit the Chair of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.

### **HEARING PROCEDURE**

44. The Hearing Committee shall decide, on a balance of probabilities, on the evidence presented to it, whether the complaint is upheld.
  
45. All matters shall be decided by a simple majority of votes cast. If there are equal numbers, the Chair shall have a second and casting vote.
  
46. The Independent Person shall attend the hearing in an advisory, non-voting capacity.
  
47. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed.
  
48. The procedure for the hearing shall be as set out below, but the Chair may agree to vary this procedure in any particular instance where they are of the opinion that such variation is necessary in the interests of fairness.

49. The Subject Member may be accompanied during the meeting by another person to support, advise or assist them.
50. The Committee may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Committee will be shared with the Subject Member and the Presenting/Investigating Officer if they are present at the hearing.
51. At the start of the hearing, the Chair shall introduce each of the members of the Committee, the Independent Person, the Subject Member (if present), the Investigating Officer (if present) and any other Officers present, and shall then explain the procedure which the Committee will follow in the conduct of the hearing.
52. The Committee shall then confirm that it is quorate, and deal with any disclosures of interests.

If the Subject Member is not present at the start of the hearing:

- The Chair will ask the Monitoring Officer if the Subject Member has provided any explanation.
  - The Committee shall then consider any reasons which the Subject Member has provided for not attending the hearing and shall decide if in exceptional circumstances an adjournment is justified.
  - If the Subject Member has not given any reasons for nonattendance, the Committee shall consider the matter and make a determination in the absence of the Subject Member.
53. If there is disagreement, the Presenting/Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Committee, witnesses can be called to give relevant evidence. With the permission of the Chairman of the Committee the Subject Member, the Committee members and the Independent Person may ask questions of a witness.
  54. The Subject Member will then present the evidence that is relevant to the facts in dispute. With the permission of the Committee, witnesses can be asked to give relevant evidence. With the permission of the Chairman of the Committee

the Subject Member, the Committee members and the Independent Person may ask questions of a witness.

55. If the Subject Member disagrees with any relevant fact in the report without having given prior notice, they must provide reasons, the Committee may continue with the hearing, relying on the information in the report, may allow the Subject Member to make representations about the issue and invite the Presenting/Investigating Officer to respond. The Committee may in exceptional circumstance postpone the hearing.
56. The Committee will consider in private, with the Independent Person, all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct.
57. At any stage in the consideration of the matter, the Committee may return to ask further questions of the Investigating Officer or the Subject Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

## **CONFIDENTIALITY AND NOTIFICATION OF COMPLAINT**

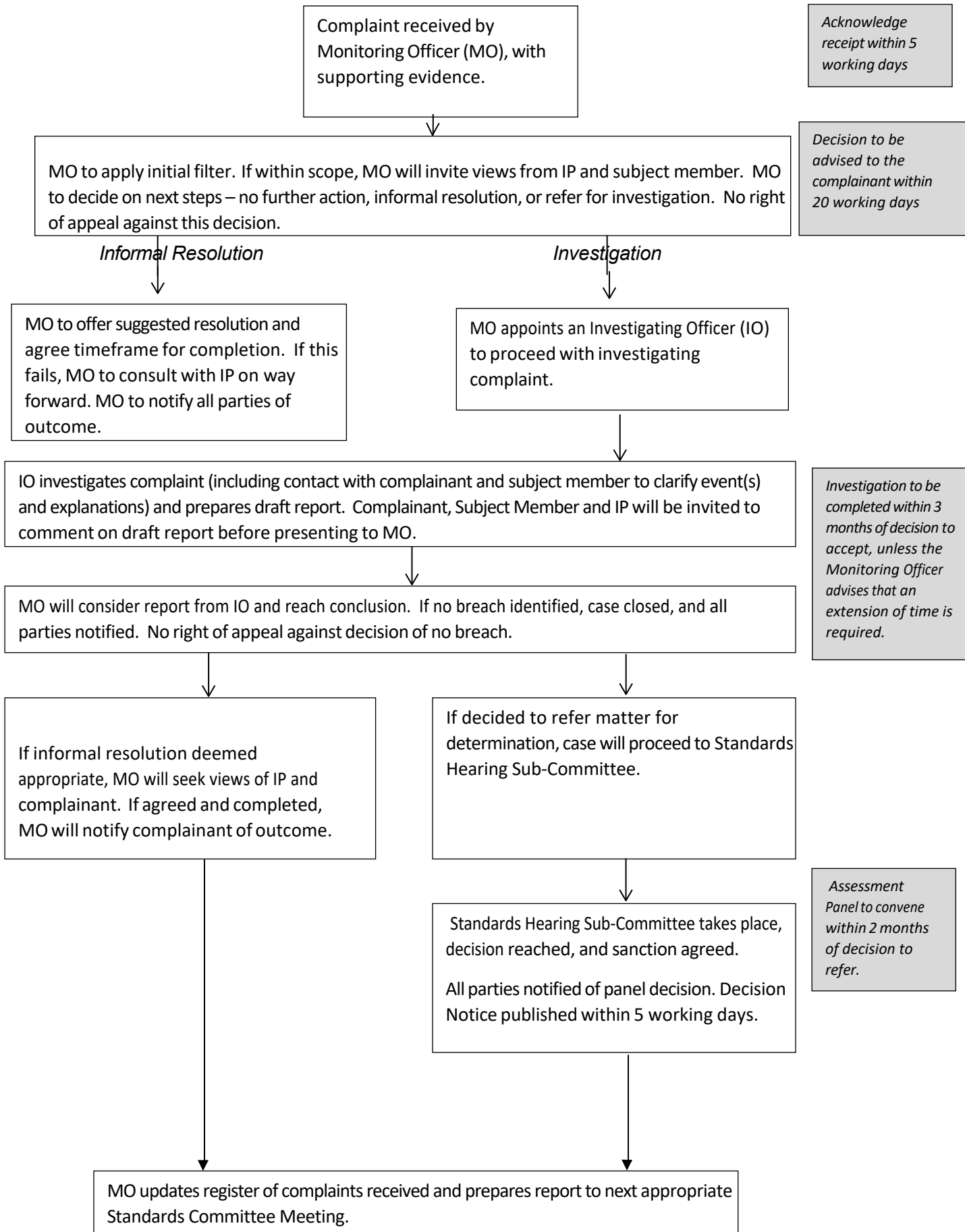
58. Unless otherwise permitted under these arrangements or required by legislation, a complaint (and all associated information and documents) that a Member has breached the Code of Conduct shall remain confidential until such time that the Monitoring Officer or Standards Hearing Sub-Committee consider it appropriate (if at all) to disclose the complaint (and all associated information and documents).
59. The Monitoring Officer will, normally advise the Leader of the Council, the Member's Group Leader and the Chief Executive of the receipt of the complaint (together with the name and address of the complainant and brief details of the complaint unless it is subject to confidentiality).
60. The Leader of the Council, the Member's Group Leader and Chief Executive shall not make any representations to the Monitoring Officer at any stage of the process.

61. The Monitoring Officer may decide not to advise the Subject Member, Leader of the Council, Member's Group Leader or Chief Executive of the receipt of the complaint if this might prejudice a subsequent investigation. The Monitoring Officer shall have the discretion to notify other persons of the receipt of the complaint as he/she considers appropriate. The Monitoring Officer shall inform the Complainant and Subject Member should he/she exercise discretion.

## **COMPLAINT SUPPORT**

62. Assistance and support shall be provided to the Complainant and Subject Member throughout this process by the Chief HR Officer or Deputy as appropriate.

## APPENDIX A - PROCEDURE FLOWCHART









## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.



## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

### Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***



# **Part Four, Section C**

## **Councillor and Officer Protocol**

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## INTRODUCTION

The purpose of this protocol is to guide Councillors and officers of the Council in their relationship with one another.

This protocol seeks to provide guidance on some of the issues that most commonly arise.

It seeks to reflect the principles underlying the respective rules of conduct that apply to Councillors and officers. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of the Council by demanding very high standards of personal conduct.

The relationship between elected **Councillors** and **officers** is fundamental to the successful working of the Council. This relationship is based on honesty, mutual respect and trust, and this protocol is intended to support that relationship by giving guidance on roles and relationships to build a common understanding and set of expectations.

The protocol also sets out what should happen on the rare occasions when things go wrong. All **Councillors** and **officers** should abide by this protocol. Political **group leaders** in respect of Councillors, and the **Chief Executive** and **Monitoring Officer** in respect of **officers**, are responsible for ensuring the protocol is upheld.

This protocol should be read and understood alongside relevant legislation and the respective Codes of Conduct. This would include the **Code of Conduct for Councillors**, the **Code of Conduct for Officers**, Social media policy etc. If any questions arise from this protocol, advice should be sought from the **Chief Executive** or **Monitoring Officer**.

The Council operates a zero tolerance policy to bullying and harassment.

### 1. ROLE OF COUNCILLORS AND OFFICERS

The respective roles of **Councillors** and **officers** can be summarised as follows:

- a. Both Councillors and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct from one another
- b. Councillors are democratically elected, operate politically, are accountable directly to the public and serve as long as their term of office lasts
- c. Officers are politically impartial and are responsible to the Council as their employer. Their role is to give advice to members and the authority and carry out the work of the authority under the direction and control of the **Full Council, Cabinet** and their committees. Officers are accountable to the **Chief Executive** as Head of Paid Service

## 2. ROLE OF COUNCILLORS

Councillors undertake many different roles:

- a. provide political leadership, expressing political values and supporting the policies of the political party to which they belong (if any);
- b. represent their ward and are advocates for the residents who live in the area;
- c. represent the Council externally, including being involved in active partnerships with other organisations, as community leaders;
- d. contribute to the decisions taken in Full Council and in various bodies on which they serve, as well as committees, outside bodies and organisations to which they are nominated by the Council;
- e. determine and review policy and strategy; and
- f. are involved in quasi-judicial work through their membership of regulatory committees. Councillors are not authorised to give assurances or promises to people or businesses save to the extent that they are informing such people or businesses of formally agreed Council decisions.

It is not the responsibility of **Councillors** to involve themselves in the day-to-day management of the Council, its **officers** or its services. They should not seek to give instructions outside their areas of responsibility or terms of reference of their respective Committee.

All Councillors, including members of the Opposition or of Scrutiny Committees or Panels, have the same rights and obligations as individual Councillors in their relationships with officers and should be treated equally.

### **Members of the Cabinet, Chairmen and Vice Chairmen**

Members of the Cabinet, Chairmen and Vice Chairmen have additional responsibilities, entailing different relationships and more regular contact with officers. They still must respect the impartiality of officers, and must not ask them to undertake work of a party political nature or that could prejudice their impartiality.

In order for the Cabinet and Cabinet Leads to discharge their responsibilities they will be briefed by the Executive Heads of Service on service issues, proposals and policy development. Other officers may be nominated to attend such briefings. Committee chairs may also be briefed on matters within the remit of their committee. These briefings may be a one off or on a regular basis in accordance with the requirement of the Councillor.

## 3. ROLE OF OFFICERS

Officers have the following main roles:

- a. managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services;
- b. providing advice to the Council and its various bodies and to individual Councillors in respect of the services provided;
- c. initiating policy proposals; and
- d. implementing agreed policy, whilst ensuring that the Council always acts in a lawful manner.

Some officers are authorised to initiate, certify or negotiate financial transactions or commercial arrangements, subject in certain cases to the need to obtain formal member approval. Certain **officers** have responsibilities in law over and above their obligations to the authority and members. These are known as statutory officers and include the **Chief Executive/Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151 officer)**. Councillors must respect these responsibilities and not obstruct or victimise officers in the discharge of them.

#### 4 EXPECTATIONS

**Councillors** and **officers** can expect the following from each other:

- a. A working partnership
- b. An understanding of and support for respective roles, workloads and pressures;
- c. Respect, dignity and courtesy;
- d. Integrity, mutual support and appropriate confidentiality;

**Councillors** can expect from **officers**:

- a. A commitment to the authority as a whole, and not to any political group;
- b. Timely response to enquiries and complaints in accordance with agreed procedures;
- c. Professional, accurate, honest and impartial advice, not influenced by political views or preference;
- d. Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- e. Awareness of and sensitivity to the political environment;

- f. Training and development from officers in order to carry out their roles effectively;
- g. Not to have personal issues raised with them by officers outside of the Council's agreed policies and procedures;
- h. That officers will at all times comply with the relevant Code of Conduct;
- i. Support for the role of Councillors as the local representatives of the authority.

**Officers** can expect from **Councillors**:

- a. Political leadership and direction through Full Council and the Cabinet;
- b. Not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of officers in determining what are reasonable requests, having regard to the powerful relationship between members and officers, and the potential vulnerability of officers, particularly at junior levels;
- c. That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- d. That Councillors will not publicly name officers or make detrimental remarks about officers during public meetings. Where Councillors are chairing or otherwise in a position of authority on committees they will do their best to ensure that meetings are conducted in such a way that officers are not subjected to bullying or harassment by members of the public attending meetings;
- e. That Councillors will not draw officers into political or group discussions;
- f. That Councillors will at all times comply with the relevant Code of Conduct.

**5. RESPECT AND COURTESY**

For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Councillors and officers. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Councillors and officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Councillors or other officers, in public places.

A Councillor who is unhappy about the actions taken by, or conduct of, an officer should:

- a. avoid personal attacks on, or abuse of, the officer at all times;
- b. ensure that any criticism is well founded and constructive;

- c. never make a criticism in public, and
- d. take up the concern with the relevant Executive Head of Service to whom the officer ultimately reports or with the Chief Executive where it involves an Executive Head of Service.

## **6. FAMILIARITY**

Close personal familiarity between individual Councillors and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

Such familiarity could also cause embarrassment to other Councillors and/or other officers and even give rise to suspicions of favouritism.

For these reasons close personal familiarity must be avoided..

## **7. UNDUE PRESSURE**

It is important in any dealings between Councillors and officers that neither should seek to take unfair advantage of their position.

Councillors should not apply undue pressure on an officer either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Neither should a Councillor lobby an officer. Particular care needs to be taken in connection with the use of Council property and services.

Similarly, an officer must neither seek to use undue influence on an individual Councillor to make a decision in their favour or in favour of the service within which they work, nor raise personal matters to do with their job, nor make claims or allegations about other officers.

## **8. PROVISION OF ADVICE AND INFORMATION**

Councillors are free to approach any member of Leadership Group to provide them with such information, explanation and advice (about the relevant service area's functions) as they may reasonably need in order to assist them in discharging their role as Councillors. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a resident/business. Such approaches should normally be directed to the Executive Head of Service or Senior Manager concerned.

Information requested will be provided, subject to any legal constraints (e.g. confidentiality relating to individuals) or unless an Executive Head of Service believes it would involve excessive resources to provide it, in which case they will seek guidance from the relevant Group Leader.

Councillors have legal rights to inspect Council documents containing material relating to business to be transacted at Council, Cabinet and Committee or subcommittee meetings. This right applies irrespective of whether the Councillor is a member of the Cabinet, Committee or Sub-Committee concerned and includes any relevant background papers. This

right does not, however, apply to documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings but in the spirit of openness, such documents are made available to all Councillors.

Further details are contained in the Access to Information Rules at Part 3 of the Constitution.

Councillors also have common law rights to inspect documents. This right is much broader and is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Councillor to properly conduct their duties as a Councillor. This principle is commonly referred to as the “need to know” principle. The exercise of this right depends on the Councillors ability to demonstrate that they have the necessary “need to know. In this respect a Councillor has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must be determined by the particular Executive Head of Service or Senior Manager who has the document in question (with advice from the Monitoring Officer).

Council information provided to Councillors should only be used for the purpose it is given, i.e. to help the Councillors to discharge their duties as a Councillor.

The Code of Conduct restricts the disclosure of confidential information provided to Councillors.

Any Councillor encountering difficulty or uncertainty about access to documents should contact the Monitoring Officer.

For completeness, Councillors do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

## **9. POLITICAL ACTIVITY**

Officers are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their relevant Executive Head of Service and not to individual Councillors whatever office they might hold. It is important that the political neutrality of officers is preserved.

The importance of political neutrality is particularly the case with regard to officers who occupy posts that are designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.

There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

The support provided by officers can take many forms, ranging from a briefing meeting with the Leader or Chair/Vice-Chair prior to a Cabinet or Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most

demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and officers alike. In particular:

- a. Officer support must not extend beyond providing information and advice in relation to matters of Council business.
- b. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
- c. Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- d. Similarly, where officers provide information and advice to a party group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, relevant Committee or Sub-Committee when the matter in question is considered.
- e. Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons officers may not attend and give information and advice as they would to a Councillor only meeting.
- f. Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relate the content of any such discussion to another party group.

## **10. CORRESPONDENCE**

Correspondence between an individual Councillor and an officer, particularly when it has been initiated by the Councillor, should not normally be copied (by the officer) to any other Councillor. However, it is acknowledged that if the Councillor who originated the correspondence included other Councillors in that correspondence, the reply will be sent to all included. Where exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

Official letters on behalf of the Council should normally be sent in the name of the appropriate officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example,



create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

## 11. USE OF COUNCIL RESOURCES

The Council provides a number of resources for Councillors within the Members' Room, for example, IT facilities, telephone, and photocopying. The only basis on which the Council can provide these services is to assist Councillors in discharging their role as Members of the Council.

## 12 COMMUNICATIONS

The Council's Communications team are able to support the **Cabinet** and Chairmen of Committees – including Audit and Scrutiny– when they act as spokespeople for the Council. There are specific statutory restrictions on the use of public resources for the Council's communications, which are followed by officers and must be respected by Councillors.

Contact with the media on issues related to the Council, or to Council business is handled through the Council's Communication team.

Any Councillor who approaches the media purporting to speak on behalf of the Council on any item involving or affecting the Council should only do so having first consulted the Council's Communication team.

Councillors and Officers should note that particular restrictions apply about publicity issued during election periods and should contact the Council's Communication team. if in doubt.

## 13 WHEN THINGS GO WRONG – Breach of Protocol

Rarely, the relationship between **Councillors** and **officers** will fall short of expectations. In such instances, it would always be preferable to deal with matters at an early stage and informally through conciliation through an Executive Head of Service or political **group leaders** or **whips**. This may not always be possible, in which case the following procedures should be followed.

### Procedure for officers

If an officer considers that a Councillor has contravened the protocol they should consult their relevant Executive Head. If conciliation via an Executive Head of Service not possible, officers can have recourse to the **Chief Executive**, as appropriate to the circumstances. **Officers** also have recourse to the Council's Whistleblowing Procedure or can refer the matter under the arrangements for complaints under the **Code of Conduct for Councillors**.

In certain circumstances breach of the Protocol may also constitute a breach of the Councillors' Code of Conduct and the matter can be referred to the Monitoring Officer.

### Procedure for Councillors

In the event that a **Councillor** is dissatisfied with the conduct, behaviour or performance of an **officer**, the matter should be raised with the appropriate Executive Head of Service.

Where the officer concerned is an Executive Head of Service the matter should be raised with the **Chief Executive**. Where the employee concerned is the Chief Executive the matter should be raised with the **Monitoring Officer**. If a Councillor is unsure how to proceed, or would wish to discuss the conduct of another Councillor toward officers, they should discuss this with their **group leader**.

Where the officer concerned is an Executive Head of Service the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive the matter should be raised with the Monitoring Officer. If a Councillor is unsure how to proceed or would wish to discuss the conduct of another Councillor toward officers, they should discuss this with their group leader.

# Part Four, Section D

## Councillors' Planning Code of Conduct

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### Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges against local planning authorities concerning Councillors' conduct or conflicts of interests.

This 2014 update takes into account the update to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

For further reading please refer to 'Probity in Planning' issued by the Local Government Association.

### Introduction

**The aim of this Code:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

**When the Code applies:** this code applies to members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### 1 Relationship to the Code of Conduct for Councillors

- 1.1 **Do** apply the rules in the **Code of Conduct for Councillors** first, which must always be complied with. This is both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the **Code of Conduct for Councillors** and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
  - a. the Council at risk of proceedings on the legality of the related decision or maladministration; and
  - b. yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the DPI provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

## **2 Development Proposals and Personal Interests**

- 2.1 **Do** disclose the existence and nature of your interest as required by your Authority's **Code of Conduct for Councillors**.
- 2.2 **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:
- 2.3 **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a DPI or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Councillors when other members of the public would not have the same opportunity to do so.
- 2.4 **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a Councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- 2.5 **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:

- a. you should send the notification no later than submission of any planning application where you can;
- b. the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
- c. you must not get involved in the processing of the application; and
- d. it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

### **3 Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)**

- 3.1 **Don't** fetter your discretion by approaching the decision with a closed mind.
- 3.2 **Do** be aware that in your role as an elected member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011 that purely making a general comment, without more, is unlikely to be taken as having a closed mind.
- 3.3 **Do** keep at the front of your mind that, when you come to make the decision, you
  - a. are entitled to have and to have expressed your own views on the matter, provided that you are prepared to reconsider your position in the light of all the evidence and arguments;
  - b. must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
  - c. are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a member, in giving fair consideration to points raised;
  - d. are only entitled to take account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
  - e. are to come to a decision after giving what you feel is the right weight to those material considerations.
- 3.4 **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

3.5 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county Councillor), provided:

3.5.1 the proposal does not substantially affect the well-being or financial standing of the consultee body;

3.5.2 you make it clear to the consultee body that:

- a. your views are expressed on the limited information before you only;
- b. you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
- c. you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

3.6 **Do** explain where you do not intend to speak and vote as a member of the Committee because you may be perceived as having (pre-)judged the matter or alternatively you reserve the right to judge the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)

3.7 **Do** take the opportunity to exercise your separate speaking rights as a ward member (*where this is granted by the authority's standing orders or by the consent from the Chair and Committee*) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:

- a. advise the **Proper Officer** or Chair that you wish to speak in this capacity before commencement of the item;
- b. remove yourself from the seating area for members of the Committee for the duration of that item; and
- c. ensure that your actions are recorded.

#### **4 Contact with Applicants, Developers and Objectors**

4.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.

4.2 **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself – you should ask the Development Control Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, they will

ensure that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

4.3 **Do** otherwise:

- a. follow the Authority's rules on lobbying;
- b. consider whether or not it would be prudent in the circumstances to make notes when contacted; and report to the Development Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**In addition in respect of presentations by applicants/developers:**

4.4 **Don't** attend a planning presentation without requesting an officer to be present.

4.5 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

4.6 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee.

4.7 **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other members would intend to vote at a committee.

**5 Lobbying of Councillors**

5.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.

5.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

5.3 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum value, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.

5.4 **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.

- 5.5 **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 5.6 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow up the matter.
- 5.7 **Do** note that, unless you have a DPI or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
- a. listening or receiving viewpoints from residents or other interested parties;
  - b. making comments to residents, interested parties, other members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
  - c. seeking information through appropriate channels; or
  - d. being a vehicle for the expression of opinion of others in your role as a ward member.

## **6 Lobbying by Councillors**

- 6.1 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make any relevant decisions.
- 6.2 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- 6.3 **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 6.4 **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other member to do so. Political Group Meetings should never dictate how members should vote on a planning issue.

## **7 Site Visits/Inspections**

- 7.1 **Do** try to attend site visits organised by the Council where possible.
- 7.2 **Don't** request a site visit unless you feel it is strictly necessary because:



- a. particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- b. there are significant policy or precedent implications and specific site factors need to be carefully addressed.

- 7.3 **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all members of the Committee
- 7.4 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 7.5 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 7.6 **Don't** hear representations from any other party, with the exception of the Ward Councillor(s) who should focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 7.7 **Don't** express opinions or views.
- 7.8 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - a. you feel it is essential for you to visit the site other than through attending the official site visit;
  - b. you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file); and
  - c. you can ensure you will comply with these good practice rules on site visits.

## **8 Public Speaking at Meetings**

- 8.1 **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chairman, as this may give the appearance of bias.
- 8.2 **Do** ensure that you comply with the [Council's procedures in respect of public speaking](#)

## **9 Relationship with Officers**

- 9.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).

- 9.2 **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal.
- 9.3 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's **Code of Conduct for Officers** and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its members.

## **10 Decision Making**

- 10.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- 10.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 10.3 **Do** make decisions in accordance with the Council's Development Plan and associated documents and neighbourhood plans unless material considerations indicate otherwise.
- 10.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 10.5 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 10.6 **Do** have recorded the reasons for Committee's decision to defer any proposal.
- 10.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## **11 Training**

- 11.1 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the relevant planning training prescribed by the Council.
- 11.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

- 11.3 **Do** participate in any annual review of a sample of planning decisions to ensure that members' judgements have been based on proper planning considerations.

# **Part Four, Section E**

## **Monitoring Officer Protocol**

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## **MONITORING OFFICER PROTOCOL**

### **1. General Introduction to Statutory Responsibilities**

- 1.1 The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989 and is accountable to the Council. That Act, the Local Government Act 2000 and the Local Government, Public Involvement in Health Act 2007 and the Localism Act 2011 place personal obligations on the appointee in respect of the Council, which are summarised as a schedule in the appendix to this protocol. This protocol provides some general information on how those statutory requirements will be discharged at Havant Borough Council.
- 1.2 The current responsibilities of the Monitoring Officer role rest with the Chief Legal Officer, who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the council. In doing so they will also safeguard, so far as is possible, members and officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 1.3 The main functions of the Monitoring Officer at Havant Borough Council are:
- a. To report to the council and to the cabinet in any case where they are of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989;
  - b. To investigate any matter, which they have reason to believe may constitute, or where they have received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
  - c. To act as the principal adviser to the authority's Standards Committee;
  - d. To act as the principal adviser to the authority's Standards Panel;
  - e. To maintain the register of members' interests;
  - f. To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the council and its committees;
  - g. To have responsibility for responding to complaints to the Local Government Ombudsman;
  - h. To undertake, with others, investigations in accordance with the council's Whistleblowing procedures;
  - i. To act as Proper Officer for the Data Protection Act 1998 and the Freedom of Information Act 2000
- 1.4 It is the Monitoring Officer's duty to consult with both the Head of Paid Service (the Chief Executive) and the Chief Finance Officer (Section 151 Officer) during the preparation of a report under paragraph 1 above, and as soon as practicable after its preparation to arrange for a copy of it to be sent to each member of the

council. The full council must consider the report within 21 days of the Monitoring Officer having sent it to members. Once the Monitoring Officer has sent out the report, the council cannot implement any proposal or decision to which it relates until the end of the first business day after they have considered it.

- 1.5 The Monitoring Officer is bound to perform all of their duties personally, save that during absence, unavailability or illness, a deputy nominated by them may undertake their duties.
- 1.6 In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on members and officers:
  - a. complying with the law (including any relevant Codes of Conduct);
  - b. complying with any general guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
  - c. making lawful and proportionate decisions;
  - d. complying with the council's constitution and standing orders;
  - e. generally, not taking action that would bring the council, their offices or professions into disrepute;
  - f. communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters.

## **2. Working Arrangements**

- 2.1 It is important that members and officers work together to promote the corporate health of the council. The Monitoring Officer plays a key role in this and it is vital therefore that members and officers work with the Monitoring Officer (and their staff) to enable them to discharge their statutory responsibilities and other duties.
- 2.2 The following arrangements and understandings between the Monitoring Officer, members and chief officers (Executive Leadership Team) are designed to ensure the effective discharge of the council's business and functions. The Monitoring Officer will:
  - a. be alerted by members and officers to any issue(s) that may become of concern to the council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - b. have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the council at which a binding decision of the council may be made (including a failure to take a decision where one should have been taken) at or before the council, committee meetings and/or strategic directorate (or equivalent arrangements);

- c. have the right to attend any meeting of the council (including the right to be heard) before any binding decision is taken by the council (including a failure to take a decision where one should have been taken) at or before the council, committee meetings and/or strategic directorate (or equivalent arrangements);
- d. in carrying out any investigation(s) have unqualified access to any information held by the council and to any member or officer who can assist in the discharge of their functions;
- e. ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- f. meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- g. report to the council, from time to time, on the constitution and any necessary or desirable changes following consultation, the Standards Committee, the Head of Paid Service and Chief Finance Officer;
- h. in accordance with statutory requirements, make a report to the council, as necessary on the staff, accommodation and resources required to discharge their statutory functions;
- i. have an appropriate relationship and good communication with the Leader of the council, the Mayor, political group leaders and the Chairs of the Standards Committee and the Finance & Audit Committee with a view to ensuring the effective and efficient discharge of council business;
- j. develop effective working liaison and relationship with the council's auditors, the Local Government and Social Care Ombudsman and the Housing Ombudsman (including having the authority, on behalf of the council, to complain to them, refer any breaches to them or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the council in consultation with the Chief Executive and the appropriate Executive Head;
- k. maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- l. give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Monitoring Officer) and, if appropriate, make a written report to the Standards Committee (unless the Chair of the Standards Committee agrees

a report is not necessary) if, in the opinion of the Monitoring Officer, there is a serious breach of Havant Borough Council's Members' Code of Conduct;

- m. in consultation, as necessary, with the Leader of the council and the Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
  - n. be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues;
  - o. advise on all applications from council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator;
  - p. appoint a deputy(ies) and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer. The deputy(ies) will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.
- 2.3 To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, members and officers will report any breaches of statutory duty or council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 2.4 The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposal.
- 2.5 Where the Monitoring Officer receives a complaint of a potential reportable incident, they shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
- 2.6 In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.
- 2.7 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report of any other officer of the authority.



- 2.8 Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, they are of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the police for investigation.
- 2.9 The Monitoring Officer is available for members and officers to consult on any issues of the council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g., Standing Orders, policy framework, terms of reference, scheme of delegations etc).
- 2.10 To ensure the effective and efficient discharge of this protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the council and the proper discharge of the Monitoring Officer role.

## APPENDIX

### Summary of Main Monitoring Officer Functions

1	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3	Appointment of Deputy(ies)	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
6	Investigate allegations of misconduct of councillors under the Council's Member Code of Conduct in compliance with the Council's adopted arrangements	Localism Act 2011 Section 28 and associated regulations and guidance
7	Establish and maintain registers of members interests and gifts and hospitality	Section 29 of the Localism Act 2011 and Code of Conduct for Members.
8	Advice to members on interpretation of Code of Conduct	Members' Code of Conduct
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	Council's Constitution
11	Refer relevant matters to the Standards Committee in accordance with the Local Assessment Procedures	Council's adopted arrangements under Section 28 of Localism Act 2011
12	Advising on appropriateness of compensation for maladministration	Section 92 Local Government Act 2000
13	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	Council's Constitution
14	Advise on any indemnities and insurance issues for members/officers	Regulations under Local Government Act 2000.

15	Act as the qualified person	S36 Freedom of Information Act 2000 and Information Commissioner's Office Awareness Guidance No. 25
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The officer holding the designation Monitoring Officer also holds certain Proper Officer appointments as detailed in the constitution.

# **Part Four, Section F**

## **Code of Corporate Governance**

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**Local Code of Corporate Governance**

## 1. Introduction

The Council's Code of Corporate Governance is based upon the CIPFA / SOLACE publication entitled "Delivering Good Governance in Local Government: Framework 2016 Edition." This revised framework emphasises the importance of considering the longer term and the links between governance and public financial management.

## 2. What do we mean by governance?

'The International Framework: Good Governance in the Public Sector' defines 'governance' as **comprising the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.** Effective governance in the public sector encourages improved decision making and efficient use of resources. Effective governance is characterised by robust scrutiny, which provides important pressures for improving public sector performance and tackling corruption. Effective governance can improve management which leads to better service delivery and ultimately, better outcomes.

The Local Code of Corporate Governance is the document which sets out the framework within which the council conducts its business and affairs.

## 3. Core principles

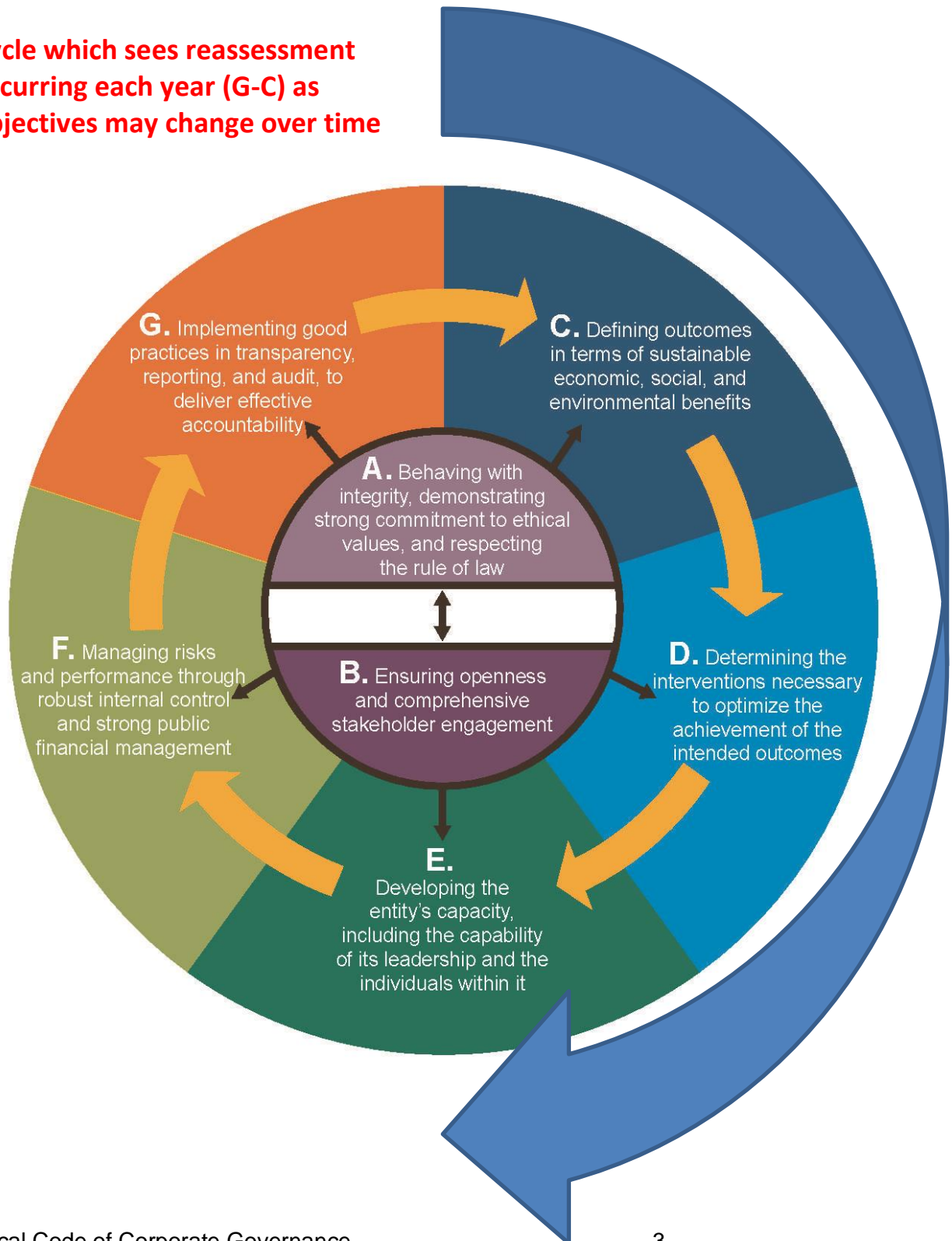
There are seven principles of good governance as set out in the framework which are:-

- A. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law;
- B. Ensuring openness and comprehensive stakeholder engagement;
- C. Defining outcomes in terms of sustainable economic, social, and environmental benefits;
- D. Determining the interventions necessary to optimise the achievement of the intended outcomes;
- E. Developing the capacity of the entity, including the capability of its leadership and the individuals within it;
- F. Managing risks and performance through robust internal control and strong public financial management; and
- G. Implementing good practices in transparency, reporting and audit to deliver effective accountability.

The diagram below, taken from the International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014) (the 'International Framework'), illustrates the various principles of good governance in the public sector and how they relate to each other.

**Achieving the intended outcomes while acting in the public interest at all times**

**Cycle which sees reassessment occurring each year (G-C) as objectives may change over time**



The Local Code specifically identifies the actions and behaviours taken by the council in relation to each of these core principles and associated sub-principles. These are summarised in the Code below.

The Audit & Finance Committee is responsible for approving this code and it is recommended that this is annually reviewed and updated accordingly.



**LOCAL CODE OF CORPORATE GOVERNANCE**

**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
<b>A. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law</b>		
Behaving with integrity	<ul style="list-style-type: none"> <li>Ensure that councillors and staff behave with integrity and lead a culture where acting in the public interest is visible and consistently demonstrated thereby protecting the reputation of the council;</li> </ul>	<ul style="list-style-type: none"> <li>Constitution</li> <li>Financial Governance documents</li> <li>Procurement Governance documents</li> <li>Councillor Induction</li> <li>Contracts, Service Level Agreements and Memoranda of Understanding</li> <li>Policies and procedures</li> <li>Councillor Development Programme</li> <li>Schemes of delegation / decision making protocols</li> <li>Audit &amp; Finance Committee</li> <li>Behaviours in performance management</li> <li>Scrutiny framework</li> <li>Meeting minutes</li> <li>Coaches and training</li> <li>Statutory officers' roles:- Chief Executive, Chief Financial Officer, Monitoring Officer</li> <li>Councillor and staff Codes of Conduct</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that councillors take the lead in establishing values for the council and its staff and that they are communicated and understood. These will build on the <i>Seven Principles of Public Life (The Nolan Principles)</i>;</li> </ul>	
	<ul style="list-style-type: none"> <li>Lead by example and use values as a framework for decision-making and other actions; and</li> </ul>	
	<ul style="list-style-type: none"> <li>Demonstrate, communicate and embed the standard operating principles or values through appropriate policies and processes which will be reviewed on a regular basis to ensure they are operating effectively.</li> </ul>	
Demonstrating strong commitment to ethical values	<ul style="list-style-type: none"> <li>Seek to establish, monitor and maintain the council's ethical standards and performance;</li> </ul>	
	<ul style="list-style-type: none"> <li>Underpin personal behaviour with Council values and ensure they permeate all aspects of the council's culture and operation;</li> </ul>	
	<ul style="list-style-type: none"> <li>Develop and maintain robust policies and procedures which place emphasis on agreed ethical values; and</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the council.</li> </ul>	
Respecting the Rule of Law	<ul style="list-style-type: none"> <li>Ensure councillors and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations;</li> </ul>	
	<ul style="list-style-type: none"> <li>Create the conditions to ensure that the statutory officers, other key post holders and councillors are able to fulfil their responsibilities in accordance with legislative and regulatory provisions;</li> </ul>	
	<ul style="list-style-type: none"> <li>Strive to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders;</li> </ul>	
	<ul style="list-style-type: none"> <li>Deal with breaches of legal and regulatory provisions effectively; and</li> </ul>	

<b>LOCAL CODE OF CORPORATE GOVERNANCE</b>		
<b>ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE</b>		
<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
	<ul style="list-style-type: none"> <li>• Ensure corruption and misuse of power is dealt with effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• Councillors / staff Register of Interests / Register of Gifts and hospitality</li> <li>• Protocol for councillor/staff relations</li> <li>• Anti-Fraud and Corruption Strategy</li> <li>• Confidential Reporting Code (whistleblowing)</li> <li>• Corporate Governance &amp; Risk Policy</li> <li>• Complaints Procedure</li> <li>• IT Acceptable Usage Policy</li> </ul>
<b>B. Ensuring openness and comprehensive stakeholder engagement</b>		
Openness	<ul style="list-style-type: none"> <li>• Ensure an open culture through demonstrating, documenting and communicating the council's commitment to openness;</li> </ul>	<ul style="list-style-type: none"> <li>• Cabinet lead meetings</li> <li>• Business cases</li> <li>• New councillor induction programme</li> <li>• Scrutiny Panels</li> <li>• Committee Reports</li> <li>• Openness is delivered by chairing formal board meetings in an open and inclusive manner</li> <li>• Annual programme of councillor workshops on Local Plan, community infrastructure levy and</li> </ul>
	<ul style="list-style-type: none"> <li>• Make decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption will be for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential will be provided;</li> </ul>	
	<ul style="list-style-type: none"> <li>• Provide clear reasoning and evidence for decisions in both public records and explanation to stakeholders and will be explicit about the criteria, rationale and considerations used. In due course, the council will ensure that the impact and consequences of those decisions are clear; and</li> </ul>	
	<ul style="list-style-type: none"> <li>• Use formal and informal consultation and engagement to determine the most appropriate and effective interventions / courses of action.</li> </ul>	
Engaging comprehensively	<ul style="list-style-type: none"> <li>• Effectively engage with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably;</li> </ul>	

**LOCAL CODE OF CORPORATE GOVERNANCE**

**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
with institutional stakeholders	<ul style="list-style-type: none"> <li>Develop formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively; and</li> <li>Ensure that partnerships are based on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit.</li> </ul>	Development Management topics <ul style="list-style-type: none"> <li>Legislative requirements to be fulfilled in advertising planning applications and other development proposals</li> </ul>
Engaging stakeholders effectively, including individual citizens and service users	<ul style="list-style-type: none"> <li>Establish a clear policy on the type of issues that the council will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service provision is contributing towards the achievement of the intended outcomes;</li> <li>Ensure that communication methods are effective, and that councillors and staff are clear about their roles with regard to community engagement;</li> <li>Encourage, collect and evaluate the views and experiences of customers, communities, citizens, service users and organisations of different backgrounds including reference to future needs;</li> <li>Implement effective feedback mechanisms in order to demonstrate how their views have been taken into account;</li> <li>Balance feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity; and</li> <li>Take account of the interests of future generations of tax payers and service users.</li> </ul>	
<b>C. Defining outcomes in terms of sustainable economic, social, and environmental benefits</b>		
Defining outcomes	<ul style="list-style-type: none"> <li>Have a clear vision, which is an agreed formal statement of the council's purpose and intended outcomes containing appropriate performance indicators, which provides the basis for the council's overall strategy, planning and other decisions;</li> <li>Specify the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer;</li> </ul>	<ul style="list-style-type: none"> <li>Corporate Strategy</li> <li>Digital Strategy</li> <li>Homelessness Strategy</li> <li>Regeneration &amp; Economy Strategy</li> </ul>

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**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
	<ul style="list-style-type: none"> <li>• Deliver defined outcomes on a sustainable basis within the resources that will be available;</li> <li>• Identify and manage risks to the achievement of outcomes; and</li> <li>• Manage customers/service users' expectations effectively with regard to determining priorities and making the best use of the resources available.</li> </ul>	<ul style="list-style-type: none"> <li>• Climate Change and Environment Strategy</li> <li>• DFG returns</li> <li>• Corporate Governance &amp; Risk Policy</li> </ul>
Sustainable economic, social and environmental benefits	<ul style="list-style-type: none"> <li>• Consider and balance the combined economic, social and environmental impact of policies, plans and decisions when taking decisions about service provision;</li> </ul>	<ul style="list-style-type: none"> <li>• Service Plans &amp; Performance measures</li> <li>• Appraisals and monthly 1-2-1s</li> <li>• Local Plan complies with national legislation and policy which requires development to be sustainable – i.e. blending social, environmental and economic issues.</li> <li>• Community Infrastructure Levy Spending Protocol provides transparency on what funds will be spent – annually reviewed</li> </ul>
	<ul style="list-style-type: none"> <li>• Take a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the council's intended outcomes and short-term factors such as the political cycle or financial constraints;</li> </ul>	
	<ul style="list-style-type: none"> <li>• Determine the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits through consultation where possible, in order to ensure appropriate trade-offs; and</li> </ul>	
	<ul style="list-style-type: none"> <li>• Ensure fair access to services.</li> </ul>	
<b>D. Determining the interventions necessary to optimise the achievement of the intended outcomes</b>		
Determining interventions	<ul style="list-style-type: none"> <li>• Ensure decision makers receive objective and rigorous analysis of a variety of options indicating how the intended outcomes would be achieved and including the risks associated with those options. Therefore, ensuring best value is achieved regardless of how services are provided; and</li> </ul>	<ul style="list-style-type: none"> <li>• Fees and Charges (statutory and discretionary)</li> <li>• Procurement management documents</li> <li>• Consultations</li> <li>• Contract management –</li> </ul>
	<ul style="list-style-type: none"> <li>• Consider feedback from customers, citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.</li> </ul>	

<b>LOCAL CODE OF CORPORATE GOVERNANCE</b>		
<b>ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE</b>		
<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
	<ul style="list-style-type: none"> <li>Establish and implement robust planning and control cycles that cover strategic and operational plans, priorities and targets;</li> <li>Engage with internal and external stakeholders in determining how services and other courses of action should be planned and delivered;</li> <li>Consider and monitor risks facing each partner when working collaboratively, including shared risks;</li> <li>Ensure arrangements are flexible and agile so that the mechanisms for delivering outputs can be adapted to changing circumstances;</li> <li>Establish appropriate Key Performance Indicators (KPIs) as part of the planning process, in order to identify how the performance of services and projects is to be measured;</li> <li>Ensure capacity exists to generate the information required to review service quality regularly;</li> <li>Prepare budgets in accordance with organisational objectives, strategies and the medium-term financial plan; and</li> <li>Inform medium and long-term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy</li> </ul>	<ul style="list-style-type: none"> <li>Performance management quarterly reviews</li> <li>KPI and PI outcomes and annual business plan success</li> <li>Monitoring of policies through ongoing review to understand policy effectiveness</li> <li>Government housing targets</li> <li>National planning application performance targets determine if interventions are required</li> </ul>
Optimising achievement of intended outcomes	<ul style="list-style-type: none"> <li>Ensure the medium-term financial strategy integrates and balances service priorities, affordability and other resource constraints;</li> <li>Ensure the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer-term;</li> <li>Ensure the medium-term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage; and</li> </ul>	
<b>E. Developing the capacity of the entity, including the capability of its leadership and the individuals within it</b>		
	<ul style="list-style-type: none"> <li>Review operations, performance use of assets on a regular basis to ensure their continuing effectiveness;</li> </ul>	<ul style="list-style-type: none"> <li>Service reviews/redesign</li> </ul>

**LOCAL CODE OF CORPORATE GOVERNANCE**

**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
Developing the council's capacity	<ul style="list-style-type: none"> <li>• Improve resource use through appropriate application of techniques such as benchmarking and other options in order to determine how the council's resources are allocated so that outcomes are achieved effectively and efficiently;</li> </ul>	<ul style="list-style-type: none"> <li>• Matrix management</li> <li>• Capacity analysis</li> <li>• Leadership Conference</li> <li>• Partnerships/shared services</li> <li>• External secondments to other local authorities</li> <li>• 360 degree feedback</li> <li>• Appraisals</li> <li>• Succession Planning</li> <li>• Talent Management/Talent matrix reviewed annually</li> <li>• Personal Development Plans</li> <li>• Staffing policies</li> <li>• Coaching and training opportunities</li> </ul>
	<ul style="list-style-type: none"> <li>• Recognise the benefits of partnerships and collaborative working where added value can be achieved;</li> </ul>	
	<ul style="list-style-type: none"> <li>• Develop and maintain an effective workforce plan to enhance the strategic allocation of resources.</li> </ul>	
Developing the capability of the council's leadership and other individuals	<ul style="list-style-type: none"> <li>• Develop protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained;</li> </ul>	
	<ul style="list-style-type: none"> <li>• Publish a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body;</li> </ul>	
	<ul style="list-style-type: none"> <li>• Ensure the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads the council in implementing its strategy and managing the delivery of services and other outputs set by councillors and each provides a check and a balance for each other's authority;</li> </ul>	
	<ul style="list-style-type: none"> <li>• Develop the capabilities of councillors and senior management to achieve effective shared leadership and to enable the organisation to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks by:                             <ul style="list-style-type: none"> <li>➢ ensuring councillors and staff have access to appropriate induction tailored to their role and that ongoing training and development that matches individual and organisational requirements is available and encouraged;</li> <li>➢ ensuring councillors and staff have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensuring that they are able to update their knowledge on a continuing basis; and</li> </ul> </li> </ul>	

**LOCAL CODE OF CORPORATE GOVERNANCE**

**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
	<ul style="list-style-type: none"> <li>➤ ensuring personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external.</li> <li>• Ensure that there are structures in place to encourage public participation</li> <li>• Take steps to consider the leadership's own effectiveness and ensure leaders are open to constructive feedback from peer review and inspections;</li> <li>• Hold staff to account through regular performance reviews which take account of training or development needs; and</li> <li>• Ensure arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.</li> </ul>	
<b>F. Managing risks and performance through robust internal control and strong public financial management</b>		
Managing risk	<ul style="list-style-type: none"> <li>• Recognise that risk management is an integral part of all activities and must be considered in all aspects of decision making;</li> <li>• Implement robust and integrated risk management arrangements and ensure that they are working effectively; and</li> <li>• Ensure that responsibilities for managing individual risks are clearly allocated.</li> </ul>	<ul style="list-style-type: none"> <li>• Budget setting</li> <li>• Budget challenge sessions</li> <li>• Internal Audit Annual Plan</li> <li>• Corporate Risk Register</li> <li>• Service Risk Registers</li> <li>• Scrutiny Panel</li> <li>• Risk Registers of partners (5Cs/Norse etc)</li> <li>• Overview &amp; Scrutiny</li> <li>• Audit &amp; Finance Committee</li> <li>• Corporate policies (fraud etc)</li> </ul>
Managing performance	<ul style="list-style-type: none"> <li>• Monitor service delivery effectively including planning, specification, execution and independent post implementation review;</li> <li>• Make decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the council's financial, social and environmental position and outlook;</li> <li>• Ensure an effective scrutiny or oversight function is in place which encourages constructive challenge and debate on policies and objectives before, during and after decisions are made - thereby enhancing the council's performance and that of any organisation for which it is responsible;</li> <li>• Provide councillors and senior management with regular reports on service delivery plans and on progress towards outcome achievement; and</li> </ul>	

**LOCAL CODE OF CORPORATE GOVERNANCE**

**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
	<ul style="list-style-type: none"> <li>Ensure there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).</li> </ul>	
Robust internal control	<ul style="list-style-type: none"> <li>Align the risk management strategy and policies on internal control with achieving objectives;</li> </ul>	
	<ul style="list-style-type: none"> <li>Evaluate and monitor the council's risk management and internal control arrangements on a regular basis</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure effective counter fraud and anti-corruption arrangements are in place;</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor;</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure an Audit &amp; Finance Committee which is independent of the executive and accountable to the council:                             <ul style="list-style-type: none"> <li>provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment; and</li> <li>that its recommendations are listened to and acted upon.</li> </ul> </li> </ul>	
Managing data	<ul style="list-style-type: none"> <li>Ensure effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data;</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure effective arrangements are in place and operating effectively when sharing data with other bodies; and</li> </ul>	
	<ul style="list-style-type: none"> <li>Review and audit regularly the quality and accuracy of data used in decision making and performance monitoring;</li> </ul>	
Strong public financial management	<ul style="list-style-type: none"> <li>Ensure financial management supports both long-term achievement of outcomes and short-term financial and operational performance</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls.</li> </ul>	
<b>G. Implementing good practices in transparency, reporting and audit to deliver effective accountability</b>		
Implementing good practice in transparency	<ul style="list-style-type: none"> <li>Write and communicate reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience ensuring that they are easy to access and interrogate; and</li> </ul>	<ul style="list-style-type: none"> <li>Audit Plans</li> <li>DFG returns</li> </ul>



**LOCAL CODE OF CORPORATE GOVERNANCE**

**ACTIONS, BEHAVIOURS AND FRAMEWORK TAKEN BY THE COUNCIL THAT DEMONSTRATE GOOD GOVERNANCE**

<b>Principle &amp; sub-principle</b>	<b>Council's actions and behaviours</b>	<b>Framework which is reported against each year in the AGS</b>
	<ul style="list-style-type: none"> <li>Strike a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous and ensuring the information is easy for users to understand.</li> </ul>	<ul style="list-style-type: none"> <li>Annual Parking Report</li> <li>Annual Statement of Accounts</li> </ul>
Implementing good practices in reporting	<ul style="list-style-type: none"> <li>Report at least annually on performance, value for money and the stewardship of its resources to stakeholders in a timely and understandable way;</li> </ul>	<ul style="list-style-type: none"> <li>Annual Governance Statement</li> <li>Audit programme is in place and includes the contract which the auditors and authority has agreed</li> <li>Local Plan: councillor workshops, public consultation, scrutiny panels, Cabinet, Full Council, independent public examination</li> <li>Audit of S106 and community infrastructure payments and spending</li> <li>Publication of planning performance statistics for national league tables</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure councillors and senior management own the results;</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure robust arrangements for assessing the extent to which the principles contained in this framework have been applied and publish the results on this assessment including an action plan for improvement and evidence to demonstrate good governance (Annual Governance Statement);</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure that the framework is applied to jointly managed or shared service organisations as appropriate; and</li> </ul>	
Assurance and effective accountability	<ul style="list-style-type: none"> <li>Ensure the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other similar organisations.</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure that recommendations for corrective action made by external audit are acted upon;</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure an effective internal audit service with direct access to councillors is in place which provides assurance with regard to governance arrangements and that recommendations are acted upon;</li> </ul>	
	<ul style="list-style-type: none"> <li>Welcome peer challenge, reviews and inspections from regulatory bodies and implement recommendations;</li> </ul>	
	<ul style="list-style-type: none"> <li>Gain assurance on risks associated with delivering services through third parties and evidence this in the Annual Governance Statement; and</li> </ul>	
	<ul style="list-style-type: none"> <li>Ensure that when working in partnership, arrangements for accountability are clear and that the need for wider public accountability has been recognised and met.</li> </ul>	

# Part Five

## Councillors' Allowances Scheme

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1	Section 1-	Introduction to the Member Allowances Scheme
2	Section 2-	The Scheme
3	Section 3 -	Basic Allowance
4	Section 4 -	Special Responsibility Allowances
5	Section 4 -	Special Responsibility Allowance
6	Section 5 -	Travel, Subsistence and Dependents and Caring Allowances
7	Section 6 -	Insurance
8	Sections 7 and 8 -	Expenses and Attendance Allowance
9	Section 9 -	Payment and Foregoing of Allowances
10	Section 10 -	Part-Year Entitlements
11	Section 11 -	Claims
12	Section 12 -	Insurance
13	Section 13 -	Independent Remuneration Panel
14	Section 1-	Introduction to the Member Allowances Scheme
15	Schedule 2 -	Approved duties for the purpose of payment of transport, subsistence and carers and dependents allowances
16	Schedule 3 -	Special Responsibility Role Evaluation Scheme

# Part Five, Section 1

## Introduction to the Member Allowances Scheme

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### 1.0 Introduction

1.1. All Councils are required to form a scheme of allowances that:

- Determines how much individual Councillors receive for being a Councillor; (the basic allowance)
- Determines how much those Councillors who have additional responsibilities should receive (special responsibilities allowances)
- Determines the circumstances under which Councillors may claim expenses for costs they have incurred because they are a Councillor

1.2 The Council must set the scheme in accordance with the requirements of the Local Authorities (Members Allowances) (England) Regulations 2003. The Scheme has been produced having due regard to the recommendations of an Independent Remuneration Panel, a group of individuals who are entirely separate from the Council who have considered how much Councillors should receive.

# Part Five, Section 2

## The Member Allowances Scheme

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### 2.0 The Scheme

2.1 The Havant Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

2.2 This scheme may be cited as the Havant Borough Council Councillors' Allowances Scheme, and shall have effect from 1st April 2020 until such time as it is amended.

2.3 In this scheme:

"Councillor" means a councillor of the Havant Borough Council.

"Year" means the twelve months ending with 31st March.

"Chief Executive" is the most senior Officer, with overall responsibility for the management of the Council; also known as the Head of Paid Service.

"Chief Finance Officer" means the officer responsible for the administration of the financial affairs of the Council; also known as the Chief Finance Officer

"Monitoring Officer" means the officer charged with ensuring that everything the Council does is fair and lawful

# Part Five, Section 3

## Basic Allowance

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### 3. Basic Allowance

- 3.1. Each Councillor shall receive a basic allowance as set out in Schedule 1 of this scheme ("Schedule1") shall be paid to each Councillor. This is an annual flat payment to all Councillors, intended to recognise the time devoted by our Councillors to work in their wards and political groups, recognising the out of pocket expenses Councillor incur in carrying out their functions. It is also recognises that Councillor undertake their Council work for the sake of public service and not private gain.
- 3.2. From 1 April 2021 the basic allowance shall be uplifted each year by the same rate as the Annual Pay Award provided to the majority of Council staff.

# Part Five, Section 4

## Special Responsibility Allowances

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### 4. Special Responsibility Allowances

- 4.1. Councillors shall receive a payment in line with Schedule 1 for any special responsibilities posts that they are appointed to by the Council.
- 4.2. A councillor may hold more than one special responsibility post, but may only be paid one special responsibility allowance.
- 4.3. All special responsibility allowances shall be uplifted each year by the same rate as the Annual Pay Award provided to the majority of Council staff.
- 4.4. No more than 50% of the number of Councillors can receive a special responsibility allowance.
- 4.5. From 1 April 2022 all special responsibility allowances shall be uplifted each year by the same rate as the Annual Pay Award provided to the majority of Council staff.
- 4.6. All special responsibility allowances or amendments to these allowances must be evaluated using the role evaluation scheme set out in schedule 3 of this scheme before being approved by the Council, who must have due regard to the recommendation of the Governance, Audit and Finance Board.

# Part Five, Section 5

## Travel, Subsistence and Dependents/Caring Allowances

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### 5. Travel, Subsistence and Dependents/Caring Allowances

- 5.1. Members are allowed to claim travel, subsistence and dependents / caring allowances when carrying out official duties as listed within Schedule 2 of this scheme (“Schedule 2”).
- 5.2. Members must submit claims within 2 months using any approved forms / IT systems. For claims to be processed within the month submitted, they must be submitted in accordance with stated deadlines provided to members.

#### ***Transport Allowances***

- 5.3. Where Councillors are undertaking official duties, claims for transport allowances will be paid at the following rates:

The rate for travel by a councillor's own <u>private vehicle</u> , or one belonging to a member of his family or otherwise provided for his use shall not exceed	45p per mile
The rates specified for travel by car may be increased in respect of the carriage of each passenger, not exceeding 3, to whom a travelling allowance would otherwise be payable under any enactment by not more than	5p per mile
Travelling by own private Bicycle, or one belonging to a member of his or her family or otherwise provided for his or her use	20p per mile
Public Transport	Standard Fare incurred; Councillors are expected to use any discount / concessionary fare entitlements
Taxis	Actual Fare, as evidenced by receipt; this should be pre-approved by the Chief

	Executive or Monitoring Officer and only in exceptional circumstances.
Car Parking, ferries and Toll Fares	Actual Fare incurred, as evidenced by ticket / receipt / statement

- 5.5. Travel on approved duties shall be at the most cost-effective method that meets the needs of the member, normally car, bus, aeroplane or train at standard rates. In particular, members who have to travel by train would be expected to travel second class unless exceptional circumstances require otherwise. In such a situation, first class travel must be given prior approval by the Chief Executive or Head of Organisational Development. If other types of journeys need to be taken by members on out of authority business (e.g. taxis) then these modes of transport must first get prior approval by the relevant Director. Furthermore, receipts must be provided for the reimbursement of any claims.
- 5.6. Should HMRC adjust the standard rates for car, motorbike or bicycle travel, then the Council may adjust the rates in 5.3 accordingly.
- 5.7. Rail tickets are available from Democratic Services for all rail journeys provided three days' notice is given.
- 5.8. The Council has made no provision for travelling to meetings from outside the UK.
- 5.9. The Monitoring Officer (or in his or her absence the Chief Executive or the Chief Finance Officer) is authorised to approve the payment of travelling and subsistence for tours, visits etc initiated by an Cabinet Lead subject to a maximum of £300 per annum for payments initiated by each Cabinet Lead.
- 5.10. Where two or more councillors are attending the same event car transport should be shared wherever practicable.

### ***Subsistence Allowances***

- 5.11. Wherever possible a member shall organise their meals and accommodation through the Council who will pre-book and pre-pay.
- 5.12. Where it is not practicable for the Council to pre-book accommodation a member shall be allowed up to 3 star accommodation which will be reimbursed on production of a receipt.
- 5.13. Where meals cannot be pre-booked and pre-paid reasonable costs will be paid on production of receipts, normally up to the same limits as apply to employees of the council.

Breakfast	up to £5.73
Lunch	up to £7.92
Dinner	up to £9.80

- 5.14. The daily maximum subsistence rate shall be increased in line with the percentage increase in the casual users mileage rate as laid down by the NJC for Local Government Services.



5.15 No subsistence allowances are payable for attending approved duties within the Borough.

***Dependents / Caring Allowances***

5.16. A Dependant Carers Allowance may be paid where a councillor has to employ a person over 16 years of age (other than a member of their own family) to care for a child under age 14, disabled person or elderly person who is a member of the councillor's family living with the councillor and in need of full time care.

5.17 The rate of payment will be up to eight hours or two approved duties if less in any one week for:

(a) child care – at the relevant national minimum wage applicable to the age of the carer; and

(b) elderly and/or disabled dependents – at the hourly rate chargeable by Hampshire County Council Adult Services for provision of a Home Care Assistant up to a maximum of £14.20 per hour.

5.18 Payment will be made on production of evidence of payment i.e. a receipt bearing the name and address of person employed to provide cover, the date, and number of hours and amount paid.

5.19 There may be exceptional circumstances where, instead of employing a carer, other care arrangements are more appropriate e.g. paying for taxi fares to school for a disabled child where a councillor is attending a meeting outside the Borough. Payment up to the maximum at 4.171 may be allowed exceptionally with the agreement of the Chief Finance Officer.

5.20 Relevant meetings for this purpose are all approved duties in Schedule 2.

# Part Five, Section 6

## Attendance at Conferences

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### 6.0 Attendance at Conferences

- 6.1 Subject to budget provision being available, approval of attendance at conferences or meetings is delegated to the Service Manager Legal and Democratic Services (or in his/her absence the Chief Executive or Chief Finance Officer) in consultation with the relevant Cabinet Lead(s); relevant travelling and subsistence also being payable
- 6.2 Selection of members should be on the basis that:
- (a) Normally no more than two Members (preferably from more than one political party) attend – normally one from the Cabinet and one from the Scrutiny Boards;
  - (b) Selection for conferences and meetings will take account of the expertise relating to the subject and member responsibility within the Council; and
  - (c) Members attending will report back through the Members' Newsletter.
- 6.3 The conference fee will be booked directly by Council officers following approval of attendance by the Council.
- 6.4 Travelling and subsistence allowances shall be paid in accordance with Section 5 above

# Part Five, Sections 7 and 8

## Expenses and Attendance Allowance

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### 7.0 Expenses

7.1 Councillors shall receive a payment of £461 per year to recognise the level of out of pocket expenses Councillors incur for telephone calls, line rentals, IT and internet costs.

### 8.0 Attendance Allowance

8.1 No attendance allowances are payable.

# Part Five, Section 9

## Payment and Foregoing of Allowances

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### 9.0 Payment and Foregoing of Allowances

- 9.1. Claims for travel, subsistence co-optees' or dependant carers allowance under this scheme shall be made in writing and will not be paid if submitted more than four months after the date of a meeting for which the entitlement arises.
- 9.2 A Councillor shall be paid any allowances from their date of appointment, so that:
- (a) in an ordinary election year, basic allowances are payable from 4 days after the date of election;
  - (b) in the event of a by-election, basic allowances are payable from the date of the by-election; and
  - (c) In the event appointment to a special responsibility post, from the date the appointment was made
- 9.3 Payments shall be made
- (a) in respect of basic and special responsibility allowances, subject to paragraph 9, in instalments of one-twelfth of the amount specified in this scheme monthly in arrears at the end of the month
  - (b) in respect of travel, subsistence or dependant carers allowance, at the end of each month in respect of claims received up to the 8th day of that month.
  - (c) in respect of expenses relating to telephone calls both land and mobile, line rental costs, IT and internet access to be paid automatically in instalments of one-twelfth of the month of the amount specified in this scheme in arrears at the end of each month
- 9.4 Where an amount has been paid in respect of a period for which the allowance is not due (e.g. for a period of suspension) the Council may require repayment of the amount overpaid.
- 9.5 Where a member is also a member on another authority that member may not receive allowances from more than one authority for the same duties.
- 9.6 A Councillor may write to the Chief Finance Officer to notify of their intention to forego any allowance, or part of any allowance, payable to them under this scheme.
- 9.7 In the event that the Council agrees that a Councillor may be granted a leave of absence of more than 6 months, then the Councillor will not be entitled to receive a basic allowance

after they have been absent for more than 6 months. Their allowance payment will be resumed after they have attended a Council meeting.

- 9.8 Where an amount has been paid in respect for which the allowance is not due (e.g. for a period of suspension) the Council may require repayment of the amount overpaid.
- 9.9 Where a member is also a member on another authority that member may not receive allowances from more than one authority for the same duties.

# Part Five, Section 10

## Part-Year Entitlements

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### 10.0 Part-Year Entitlements

10.1 The provisions of this section shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

10.2 If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

10.3 Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.

10.4 Where this scheme is amended as mentioned in sub-paragraph 9.2, and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph 9.2(a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a councillor subsists bears to the number of days in that period.

10.5 Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.

- 10.6 Where this scheme is amended as mentioned in sub-paragraph 9.2, and a councillor during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 9.2(a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

# Part Five, Section 11

## Claims

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### 11 Claims

- 11.1 Claims for allowances that are not automatically paid should be made using the MyView system. Enquiries about all councillor's allowances should be made in the first instance to the Democratic Services Team.
- 11.2 Payment will be made monthly direct to a bank or building society unless a councillor certifies that they do not have such account.
- 11.3 Tax will be deducted from basic and special responsibility allowances in accordance with the instructions of H.M. Inspector of Taxes. Councillors are advised that certain expenses (e.g. use of homes and private telephones) may be justifiable as claims against their allowances; this is a matter for direct negotiation between the councillor and H.M.R.C. Any subsequent change in the level of expenditure will be the subject of the normal arrangements for the under and over deduction of tax in relation to the councillor's final tax position. National Insurance Contributions will be deducted where appropriate.
- 11.4 Councillors are reminded that they are responsible for keeping accurate records of approved duties and certifying claim forms accordingly. While the staff will always help councillors in any way possible, it is a requirement that councillors must personally submit all claims, including times and amounts claimed.
- 11.5 Completed claims will be paid at the end of the month, provided they have been submitted by the 8th day of that month.

#### Publication of Claims

- 11.6 As soon as is reasonably practicable after the end of a year to which a scheme relates, the Council shall make shall publish on the Council's website the total sum paid by them in the year to each councillor in respect of each of the following
- (a) basic allowance;
  - (b) special responsibility allowance;
  - (c) dependant carers allowance; and
  - (d) travelling and subsistence allowance.



# Part Five, Section 12

## Insurance

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### 12.0 Insurance

12.1 The Council provides cover for councillors (which includes co-opted members) as follows:

#### 12.1.2 Third Party Cover

Councillors are indemnified, if the claim could have been made against Havant Borough Council, up to a maximum of £30,000,000 in respect of all sums (including costs and expenses) which they are legally liable to pay as compensation arising out of

- (a) Accidental bodily injury or illness to any Third Party; and
- (b) Accidental loss or damage to property arising out of the Council's function as a local authority.

#### 12.1.3 Employers' Liability Cover

Councillors are indemnified, if the claim could have been made against Havant Borough Council, for an amount up to £30,000,000 in respect of sums (including costs and expenses) that they are legally liable to pay as compensation for bodily injury or disease suffered by an employee of the Council arising out of their employment.

#### 12.1.4 Motor Insurance

If a councillor drives a Council vehicle he/she is required to be covered by comprehensive insurance (a good example might be driving the Mayor's official car).

#### 12.1.5 Personal Accident

The amounts shown below are payable for accidents while on official duties in the U.K. or Europe or on activities which are complementary to the duties of a councillor e.g. Ward Surgeries, Caucus Meetings, Site Viewing, Addressing Public Meetings and Meeting of Council Tax payers.

Death or permanent total disablement  
£100,000

Permanent partial disablement    Percentage of this sum dependent on disablement

Temporary total disablement    £175 per week for up to 2 years.

Temporary partial disablement    £150 per week for up to 2 years.

Where temporary disablement occurs the period will be limited to the time when a councillor is prevented from engaging in his normal profession or occupation. If the councillor is not in remunerative employment the period is limited to the time in which he cannot carry out his activities as a councillor.

Cover is also given for assault committed on the person insured because he is a councillor, even if he is not on Council business at the time.

There is unlimited cover for damage to clothing/personal effects at the same time as the accident.

#### 12.1.6 Slander and Libel

In defence of an action brought against them, councillors are indemnified if the claim could have been made against Havant Borough Council. The indemnity is subject to a maximum of £1,000,000 in respect of all sums (including costs and expenses) they are legally liable to pay as compensation for slanders in the course of official Council business. Generally, this covers Committee Meetings and duties where the councillor is representing the Council on Management Committees of local organisations.

It does not extend to involvement in the operation of an organisation other than as stated above, nor to a councillor who holds a position on another body where a factor in the appointment has been that he is a councillor but he is not representing the Council in that position (e.g., Chairman of a voluntary body). It is for the organisation to hold their own insurances and councillors are recommended to enquire of the organisation about the cover held.

There is also a very limited indemnity for libel providing the text of the prepared statement is previously approved by the Council's legal department.

Statements made on radio and television are in practice not covered as they are within the definition of libel and thus would have had to be previously approved.

Councillors must bear 10% of the cost of any claim met by the insurers under the slander and libel policy (this is to encourage councillors to be accountable for their actions).

#### 12.2 **No insurance cover is held by the council for the following activities of councillors:**

- (a) No cover exists for costs awarded against councillors in actions against them for alleged dereliction of duty (e.g., mandamus, etc.).
- (b) Councillors using their own private vehicles for Council business must arrange their own insurance. Use on Council business will probably not be classed as "social, domestic and pleasure". Councillors are advised to contact their insurers to ensure that their insurance provides cover while on Council business.
- (c) There is no cover for money in the possession of councillors. An example is the Mayor's Appeal Fund.
- (d) In any case where an individual councillor suffers physical injury, financial or other loss, or is defamed in circumstances arising out of their proper involvement in a matter as a councillor of the Borough Council and without any culpability on their part, where no insurance held by the Council offers compensation to the councillor

concerned, the Council will lend reasonable and appropriate support to the individual councillor affected in pursuing whatever remedies and compensation are properly available to him/her in consequence of the injury suffered, subject to advice from the Monitoring Officer on the merits and strength of the case of the affected councillor and upon there being a reasonable and realistic prospect of them succeeding in whatever course of action is appropriate by way of remedy.



# Part Five, Section 13

## Independent Remuneration Panel

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### 13. Independent Remuneration Panel

- 13.1. When setting its Members Allowances Scheme, the Council shall have due regard to the recommendations of an independent remuneration panel.
- 13.2 An independent remuneration panel shall consist of at least three members none of whom is also a member of an authority in respect of which it makes recommendations.
- 13.3 A person may not be a member of an independent remuneration panel if they are disqualified from being or becoming a member of a district, county or London borough council.
- 13.4 the independent remuneration panel shall produce a report making recommendations in accordance with The Local Authorities (Members' Allowances) (England) Regulations 2003.
- 13.5 Where the Council receive a copy of a report made to them by the independent remuneration panel they shall, as soon as is reasonably practicable:
- (a) ensure that copies of that report are available for inspection by members of the public at the principal office of the authority at all reasonable hours; and
  - (b) publish in one or more newspapers circulating in their area a notice which:
    - (i) states that they have received recommendations from an independent remuneration panel in respect of their allowance scheme;
    - (ii) describes the main features of that panel's recommendations and specifies the recommended amounts of each allowance mentioned in its report in respect of that authority;
    - (iii) states that copies of the panel's report are available at the principal office of the authority for inspection by members of the public at such times as may be specified by the authority in the notice; and
    - (iv) specifies the address of the principal office of the authority at which such copies are made available.
- 13.6 The Independent Panel must review the allowances scheme at least every four years.

# Part Five, Schedule 1

## Rates of Allowances

### Rates of Allowances

Post	£
<b>Basic Allowance</b>	
All Members (38)	£5,906
<b>Special Responsibility Allowances (SRAs)</b>	
Leader	£18,950
Deputy Leader	£10,896
Cabinet Leads	£9,163
Assistant Cabinet Lead	£2,652
Chairman of Audit and Finance Committee	£6,026
Chairman of Standards Committee	£4,098
Chairman of Overview and Scrutiny Committee	£6,026
Chairman of Planning Committee	£5,448
Chairman of Planning Policy Committee	£5,544
Chairman of Human Resources Committee	£3,962
Chairman of Licensing Committee	£1,214
Leaders of any political group, other than the ruling group, comprising two or more members:	
Band A      2-5 Members	£991
Band B      6-10 Members	£1,929
Band C      11-15 Members	£2,892
Band D      16+ Members	£3,857

# **Part Five, Schedule 2**

## **Approved duties for the purpose of payment of transport, subsistence, and carers/dependents allowances**

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### **Approved duties for the purpose of payment of transport, subsistence and carers / dependents allowances**

The following are specified as approved duties for the purpose of travel allowances:

- (a) Attendance as an appointed member at meetings of the Council, Cabinet, Committees and Sub-committees.
- (b) Attendance at Presentations, Seminars and Workshops to which all councillors are invited by the Head of Customer and Support Services shall count as an approved duty.
- (c) Meetings convened by the Council including:
  - (i) Opening of tenders;
  - (ii) Weekly business meetings and agenda setting meetings;
  - (iii) Working Parties set up by the Council;
  - (iv) Annual Tours of the Borough;
  - (v) Committee briefing meetings;
  - (vi) Attendance at bodies to which the Council makes appointments or nominations;
  - (vii) Attendance at conferences and meetings to which Section 175 of the Local Government Act 1972 applies where attendance is agreed in advance;
  - (viii) Visits by councillors to Wesermarsch or other twin towns do not qualify as an approved duty;
  - (ix) Attendance by councillors serving on the Portchester Crematorium Joint Committee will qualify for travel allowances payable by this Authority, where such allowances cannot be claimed from the Portchester Crematorium Joint Committee;
  - (x) Attendance by the Chairman or Vice-Chairman of the Development Control Committee at the Civic Offices at the request of the Corporate Director to take

any step on planning applications where the Committee have empowered them to act;

- (xi) Attendance by a councillor at the written request of the Mayor, Chief Executive or Director for the purpose of furthering Council business;
- (xii) Attendance of a councillor before any representative of the Commission for Local Administration, at the latter's written request, in connection with any investigation under Part III of the Local Government Act 1974;
- (xiii) Attendance of a councillor before the Council's external auditor at the latter's written request in connection with a matter being considered at audit other than a payment to or a pecuniary claim by that councillor;
- (xiv) Attendance of a councillor, at the written request of the Head of Customer and Support Services, in connection with a public inquiry or legal proceedings to which the Council is a party;
- (xv) Attendance of a councillor at public inquiries where the councillor is called by the Monitoring Officer as a witness to represent the Council's position and the attendance is approved by the Chairman of the Development Management Committee for that purpose;
- (xvi) Attendance by the Mayor or Deputy Mayor at the Civic Offices to attend to mayoral duties not more than once a day;
- (xvii) Attendance at up to three pre-arranged meetings per week with officers; and
- (xviii) Any other approved duty agreed by the Council, Cabinet, Committees or Sub-Committees.



# Part Five, Schedule 3

## Members Allowances Scheme

### 2020-2024

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#### Schedule 3

#### Special Responsibility Role Evaluation Scheme

##### Section 1 - Statement of Intent

- 1.1 This procedure sets out how the Council provides an internal framework to determine the appropriate level of special responsibility allowances paid to Councillors. This framework enables consistent decisions to be made on allowances paid to Councillors who have additional responsibilities. This procedure ensures that the integrity of the current Councillor Allowance structure is preserved.
- 1.2 For the purposes of this scheme “Special Responsibility Allowance” means an allowance as defined in regulation 5 of The Local Authorities (Members' Allowances) (England) Regulations 2003.

##### Section 2 - Scope

- 2.1 This procedure applies to all posts that receive a special responsibility allowance.
- 2.2 The aim of the system is to provide a hierarchy of Councillor roles and allowances that are free from discrimination.

##### Section 3 – Responsibilities

###### Role Evaluation Panel

- 3.1 Where it is proposed to create a new or amend an existing special responsibility allowance, the Governance, Audit and Finance Board (“the Board”) will establish a Members’ Remuneration Panel (The Panel) to undertake a role evaluation exercise.
- 3.2 The Panel will comprise of at least 3 members of the Board. The Panel shall be assisted by an officer from the Democratic Services Team, the Chief Finance Officer or his or her representative, and the Monitoring Officer or his or her representative.
- 3.2 The Panel will ensure that the role evaluation is fair, transparent and robust.
- 3.3 The Panel will review all relevant information relating to the role and check factor levels (points) to ensure that the levels are technically correct, consistently applied and equitable. The Panel shall consider all sources of evidence including the outputs from the role evaluation discussion, any changes to existing roles that receive a special

responsibility allowance, role descriptions, and scoring notes. To ensure that the Panel has a full understanding of the role, the Leader of the Council or proposer for the new allowance must also be prepared to present a business case for the change to the Panel and answer any queries the Panel may have. Where considered appropriate, factor levels (points) can be manually adjusted to remedy any accuracy or consistency issues.

- 3.4 Before submitting its recommendations, the Panel shall consult the Chief Finance Officer or his or representative, the Leader of the Council and the Monitoring Officer or his or her representative.
- 3.5 It is not the role of the Panel to amend role descriptions
- 3.6 Where the Panel's members have an interest in a role, they are responsible for declaring so prior to the panel meeting.
- 3.7 The Panel are responsible for:
- (a) considering the role and not the person who may currently hold that role;
  - (b) considering the role as it would be done at fully acceptable performance; and
  - (c) considering the role as it is defined in the documentation and supporting information presented to the Panel by the Democratic Services Team – not the role as it was nor as it might be at some future date.

#### **Chief Finance Officer**

- 3.8 The Chief Finance Officer shall advise on the financial implications of changes to the special responsibility allowances.
- 3.9 The Chief Finance Officer may appoint a representative to undertake the duties set out in 3.8 above.

#### **The Monitoring Officer**

- 3.10 The Monitoring Officer shall advise on the financial implications of changes to the special responsibility allowances.
- 3.11 The Monitoring Officer may appoint a representative to undertake the duties set out in 3.9 above.

#### **Democratic Services Team**

- 3.12 A representative of the Democratic Services Team shall provide administrative support to the Panel including attending and minuting all meetings of the Panel, undertaking research for the Panel and drafting the final report and recommendations of the Panel.

### **Section 4 – Procedure**

#### **When to evaluate**

- 4.1 All new special responsibility roles must be evaluated.
- 4.2 A review of the grading of an existing special responsibility role may occur when there are substantial changes to the role. This must be discussed first with the Leader of the Council

who will provide advice on whether the changes are substantial enough to warrant a re-evaluation.

- 4.3 For each role to be evaluated the Panel must be provided with an up to date description of the responsibilities, skills and workload of the role to be evaluated. The Leader of the Council or proposer for the new allowance must also be prepared to present a business case for the change to the Panel.

## **Section 5 - The Outcome**

5.1 The Panel may make one of the following recommendations

- a) increase or decrease an existing special responsibility allowance
- b) create a special responsibility role together with the level of the allowance for this role
- c) to make no changes to an existing special responsibility role
- d) not to establish a new special responsibility role/allowance

5.2 The recommendations of the Panel will be submitted to the Audit and Finance Committee, who will consider them and submit its recommendations to Full Council for a final decision.

# Part Six

## Glossary of Terms

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<b>Agenda</b>	This sets out the business to be conducted at Council meetings and must be published in advance of the meeting in accordance with legislation and the Access to Information Rules.
<b>Annual Governance Statement</b>	<p>The Annual Governance Statement is a statutory document which explains the processes and procedures in place to enable the Council to carry out its functions effectively. The statement is produced following an annual review of the Council's governance arrangements and the effectiveness of its system of internal control. The statement includes an action plan to address any significant governance issues identified.</p> <p>The Annual Governance Statement is prepared in accordance with the <b>CIPFA</b> Framework. The Annual Governance Statement must be published by the Council by 31 July each year. It is usually published alongside the Council's <b>Statement of Accounts</b>.</p>
<b>Audit Committee</b>	The Audit Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.
<b>Background Papers</b>	Papers which relate to agenda items and meetings and which must be referred to in the reports with the agenda for inspection by the public, in accordance with the Access to information Rules
<b>Best Value</b>	<p>The 'Best Value Duty' is a legal duty on the Council, in accordance with section 3 of the Local Government Act 1999. This general duty of Best Value requires the Council to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.</p> <p>When reviewing service provision the Council should consider overall value, including economic, environmental and social value.</p>
<b>Budget</b>	All the financial resources allocated to different services and projects.

With regards to the Council's budget, that means the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and setting virement limits, as a whole.

<b>Budget and Policy Framework</b>	<b>Policy</b>	The Full Council is responsible for setting the <b>Budget and Policy Framework</b> . The <b>Budget and Policy Framework</b> sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Full Council can change the <b>Budget and Policy Framework</b> .
<b>Budget Meeting</b>	<b>Council</b>	The meeting of the Full Council that takes place each year in order to calculate the budget requirement and set the council tax.
<b>Cabinet</b>		The <b>Executive</b> committee comprising the <b>Leader</b> of the Council and up to 9 individual <b>Cabinet members</b> selected by the Leader.
<b>Cabinet member</b>		A member of the <b>Cabinet</b> , with specific responsibilities (a 'portfolio') delegated by the <b>Leader</b> of the Council. Also known as 'portfolio holders' and <b>Executive members</b>
<b>Call-In</b>		A mechanism, which allows the Overview and Scrutiny Committee to examine, and challenge, an <b>Executive decision</b> before it is implemented.
<b>Chief Executive</b>		The most senior officer, with overall responsibility for the management of the Council, also known as the Head of Paid Service.
<b>Chief Finance Officer</b>		The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Section 151 Officer
<b>Chief Officer</b>		The most senior Council staff who are responsible for managing each of the Council's departments, as defined in section 2 of the Local Government and Housing Act 1989. It means the Council's <b>Chief Finance Officer</b> , <b>Monitoring Officer</b> as well as any officers whom report directly to the <b>Head of Paid Service</b> (but does not include secretarial, clerical or support staff). The Council's <b>Executive Directors</b> are chief officers
<b>CIPFA</b>		The Chartered Institute of Public Finance and Accountancy.

<b>Code of Conduct for Councillors</b>	The Code which sets out the standards of behaviour expected of Councillors and co-opted members.
<b>Code of Conduct for Officers</b>	The Code which sets out the standards of behaviour expected of officers.
<b>Code of Corporate Governance</b>	The Code setting out the Council's governance framework. The Code of Corporate Governance is prepared in accordance with the <b>CIPFA</b> Framework.
<b>Committee</b>	A Committee authorised to make executive or non-executive decisions.
<b>Confidential Information</b>	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
<b>Constituency Cotermious</b>	A constituency having some of the same boundaries as another constituency
<b>Constitution</b>	The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
<b>Contract Standing Orders</b>	The rules which set out how the Council buys goods and services and enters into contracts.
<b>Co-optee/Co-opted</b>	A person appointed to serve on a Committee/Sub-Committee in an advisory capacity. They are not Councillors and are not entitled to vote.
<b>Council companies</b>	A company in which the Council is a shareholder
<b>Councillor</b>	A person elected by voters to be a member of the Council. Also known as a 'member' of the Council.
<b>Councillors' Planning Code of Conduct</b>	The Code which sets out the standards of behaviour expected of Councillors on Planning Committee
<b>Council and Cabinet Forward Plan</b>	A list of all major decisions to be made by Council and <b>key decisions</b> to made by <b>Cabinet</b>
<b>Data Protection Legislation</b>	means all privacy laws applicable to personal data including the Data Protection Act 2018 and regulations made under it and the General Data Protection Regulation (Regulation (EU) 2016/679); together with all codes of practice and other statutory guidance issued by the Information Commissioner's Office

<b>Deputy Chief Officers</b>	The second most senior Council staff, whom report directly to the Council's <b>Chief Officers</b>
<b>Designated Officer</b>	For the purposes of officer delegated powers within this Constitution, the term "Designated Officer" shall include the following officers: <ul style="list-style-type: none"> <li>• The <b>Chief Executive</b></li> <li>• Director for Regeneration &amp; Place</li> <li>• Client Relationship Director</li> <li>• Director for Corporate Services &amp; <b>Chief Finance Officer (Section 151 Officer)</b></li> </ul>
<b>Development Plan</b>	Development plan and development plan documents include the local plan, neighbourhood plans, and other information contained in section 38 Planning and Compulsory Purchase Act 2004
<b>Executive</b>	The collective term for the <b>Leader</b> of the Council, individual <b>Cabinet members</b> , the <b>Cabinet</b> or a committee of the Cabinet.
<b>Executive Board</b>	The meeting of Chief Officers, also referred to as <b>Executive Directors</b>
<b>Executive Functions/ Executive Decisions</b>	The majority of the Council's functions, which are the responsibility of the <b>Leader</b> of the Council or if he or she decides by the <b>Cabinet</b> , individual <b>Cabinet members</b> , a committee of the Cabinet, a joint committee, another local authority, or officers. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be <b>non-executive functions</b> are, by default, executive functions.
<b>Executive Director</b>	The Director for Regeneration & Place, the Client Relationship Director and the Director for Corporate Services & Chief Finance Officer (Section 151)
<b>Executive Member</b>	<b>Leader</b> of the Council, Deputy Leader of the Council and other <b>Cabinet members</b>
<b>Exempt Information</b>	Information falling into one of the categories set out in the law which usually cannot be publicly disclosed – see the Access to Information Procedure Rules.
<b>Financial Procedure Rules</b>	The Rules which sets out how the Council's financial procedures operate to safeguard public money
<b>Five Clear Days</b>	The period during which copies of the agenda and reports of a meeting must normally be available for inspection

under the Access to Information Procedure Rules. The period of five working days not counting;

- the day of the meeting
- the day on which the meeting is called
- days which fall at the weekends, public holidays or bank holidays.

<b>Full Council</b>	The meeting of all Councillors of the Council
<b>Group Leaders</b>	People appointed by a political group to act as the leader of that group of Councillors.
<b>Head of Paid Service</b>	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the <b>Chief Executive</b> .
<b>Imprest Account</b>	The imprest system is a form of financial accounting system. The most common imprest system is the petty cash system. The base characteristic of an imprest system is that a fixed amount is reserved, which after a certain period of time or when circumstances require, because money was spent, it will be replenished.
<b>Independent Persons Panel</b>	The Panel established by East Hampshire District Council and Havant Borough Council to review the recommendations of the <b>Investigation and Disciplinary Committee</b> into <b>Statutory Officer</b> discipline and compile a recommendation of its own for consideration by the Full Council.
<b>Investigation and Disciplinary Committee</b>	The Committee as referred to in the JNC Conditions of Service for Chief Executives and Chief Officers. It is the Committee appointed by the Joint Human Resources Committee to consider disciplinary issues in relation to the Council's <b>Statutory Officers</b> : the <b>Chief Executive (Head of Paid Service)</b> , <b>Chief Finance Officer</b> and <b>Monitoring Officer</b> .
<b>Joint Committee</b>	A committee appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.
<b>Key Decision</b>	An executive decision which is likely 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, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or



electoral divisions in the area of the Council. For these purposes, savings and expenditure are “significant” if they are equal to or greater than £250,000. For clarification, no **treasury management** decision shall constitute a Key Decision.

<b>LA SAAC</b>	Local Authority (Scotland) Accounts Advisory Committee (LASAAC)
<b>Large Scale Major Development</b>	Residential developments of 100 dwellings or more, or 2 HA or more; 5,000 square metres or more, or 2HA or more, of retail, commercial or industrial or other floor space
<b>Leader</b>	The person elected as the Leader of the majority party and Leader of the Council. They are responsible for carrying out the <b>executive functions</b> of the Council.
<b>Licensing Committee</b>	The committee that carries out the Council’s licensing responsibilities including under the Licensing Act 2003 Act and the Gambling Act 2005.
<b>Local Choice Functions</b>	These are functions specified in Regulations issued under the Local Government Act 2000 Act and which the Council can choose to be either executive or non-executive functions.
<b>Local Government Application Note</b>	The guidance note on the requirements and practice of internal audit in the local government environment, in line with <b>Public Sector Internal Audit Standards</b> .
<b>Mayor of the Council</b>	The Councillor elected each year to act as Mayor of the Council.
<b>Monitoring Officer</b>	The officer charged with ensuring that everything that the Council does is fair and lawful.
<b>Non-Executive Functions</b>	These are functions specified in Regulations issued under the Local Government Act 2000 Act and include functions such as those relating to Officers, Planning and Licensing. Non-executive functions may be delegated to Committees, Sub-Committees or Officers under Section 101 of the Local Government Act 1972 (“the 1972 Act”). Unless specified as a non-executive function, a function is presumed to be an <b>executive function</b> .
<b>Officer</b>	A person employed by the Council to carry out the work of the authority. Officers cannot be Councillors
<b>Officer Scheme of Delegation</b>	The way in which the officers of the Council can make decisions and which decisions they have the power to make, as set out at Part 2 Section G of the Constitution.

<b>Order</b>	Means a Standing Order in the Rules of Procedure contained in Part 3 of this Constitution
<b>Overview &amp; Scrutiny</b>	<p>Providing support and advice to the <b>Executive</b> by contributing to the review and development of policy; holding the Executive to account by questioning, challenging and monitoring their performance.</p> <p>This function is undertaken by the Overview and Scrutiny Committee</p>
<b>Planning Committee</b>	The committee of Councillors which makes planning decisions (not delegated to officers) on behalf of the Council.
<b>Planning Protocol</b>	The code of practice which sets out the standards of behaviour expected of members of the Planning Committee when sitting on this committee
<b>Political Balance</b>	<p>Political balance means:</p> <ul style="list-style-type: none"> <li>(i) That not all seats on the committee, sub-committee or relevant joint authority or joint committee ("the body") are allocated to the same political group;</li> <li>(ii) That the majority of seats on the body are allocated to a political group holding the majority of seats on the Council;</li> <li>(iii) That, subject to (i) and (ii) above, the total number of seats held by each political group on all committees of the Council taken as a whole is proportionate to that group's membership of the authority; and</li> <li>(iv) That, subject to (i) and (iii) above, the number of seats held by each political group on individual bodies is proportionate to that group's membership of the Council.</li> </ul>
<b>Political Group</b>	Two or more Councillors who have joined together and asked to be recognised as a political group.
<b>Politically Restricted Post</b>	Employees in politically restricted posts are prevented from having any active political role either in or outside of work
<b>Portfolios/Portfolio Holder/Responsibility</b>	A portfolio describes the specific responsibilities delegated by the Leader of the Council to a Cabinet member, for which they are the portfolio holder.
<b>Private Meeting</b>	A private meeting' means a meeting or part of a meeting of the <b>Cabinet</b> or a <b>Cabinet</b> Committee during which the

	public are excluded in accordance with Standing Order 42 (Exclusion of Access by the Public to Meetings).
<b>Procedure Rules</b>	The rules governing the processes of the Council's decision-making
<b>Proper Officer</b>	An officer designated as being responsible for a specific function.
<b>Protocols</b>	Codes of Practice, which set out how, for example, various elements of the Council, are expected to interact with each other.
<b>PSAA</b>	Public Sector Audit Appointments Limited, established by the Secretary of State for Housing Communities and Local Government as an appointing person under provisions of the Local Audit and Accountability Act 2014. The PSAA appoint external auditors to local public bodies
<b>Public Sector Internal Audit Standards</b>	The UK Public Sector Internal Audit Standards (PSIAS) have been developed to apply across the whole of the public sector in all sectors of government. The PSIAS are based on standards issued by the Institute of Internal Auditors (IIA), with additional requirements and interpretations that make them directly applicable to the UK public sector. The PSIAS are developed jointly by the relevant internal audit standard setters (RIASS) for central government, local government, devolved government administration bodies and the National Health Service (NHS). The PSIAS set out requirements which apply generally to all UK public sector engagements, but do not include any sector requirements or guidance for specific parts of government.
<b>Quorum</b>	The minimum number of people who have to be present before a meeting can take place.
<b>Section 151 Officer</b>	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the <b>Chief Finance Officer</b>
<b>Standards Committee</b>	A Committee responsible for promoting and maintaining high standards of conduct by Councillors and considering written allegations that a Councillor has failed to comply with their Code of Conduct.
<b>Statement of Accounts</b>	The Statement of Accounts inform interested parties of the Council's finances and includes such information as the Council's assets and liabilities at the end of the financial

year, the cost of the services provided by the Council and the way in which these services were financed. These must be published by the Council by 31 July each year.

<b>Statutory Officers</b>	These are officers that the authority must have in place, some of which may be combined and some of which cannot, but they all have additional personal responsibilities. In this council they are the <b>Head of Paid Service</b> , the <b>Monitoring Officer</b> and the <b>Chief Finance Officer</b>
<b>Sub-Committee</b>	A sub-committee authorised to make executive decisions and non-executive decisions.
<b>Treasury Management</b>	Treasury management functions are those functions carried out in accordance with the approved Treasury Management Strategy. The Chief Finance Officer is responsible for the Treasury Management Strategy.
<b>Virement</b>	Moving funds from one area of expenditure to another.
<b>Whip</b>	The member of a political group appointed to ensure discipline amongst other members of the same political group. A whip's role included ensuring members of the party vote according to the party platform. In certain regulatory functions such as Planning and Licensing, Councillors are required to act independently and are not subject to the group/party whip. Special training is arranged for Councillors for this.

## **10 Duty to monitor and review the Constitution**

- 10.1 The Constitution has been formally adopted by the Council. The Monitoring Officer will monitor and review the operation of the Constitution on a regular basis, to ensure that it is up-to-date and that the aims and principles of the Constitution are given full effect.
- 10.2 The Monitoring Officer has authority to make minor amendments and corrections to the Constitution to ensure that:
- 10.2.1 legislative references are updated;
  - 10.2.2 it reflects the Council's structures and decision-making requirements;
  - 10.2.3 consequential amendments are made as a result of Council and Cabinet decisions;
  - 10.2.4 it is clear and unambiguous and maintains efficiency of operations;  
and
  - 10.2.5 any other required changes are made as appropriate.
- 10.3 The Leader may amend and/or update the **Executive** arrangements at any time and shall notify the Monitoring Officer of any changes.
- 10.4 Any other change to the Constitution will only be approved by the Full Council after consideration by the **Standards Committee**.
- 10.5 The Monitoring Officer will inform all Councillors when changes are made to the Constitution.

## Changes Made to the Consitution

Date	Section/Paragraph/Page	Current	Proposed Amendment	Requested by	Authorisation	Date Amended
	Part 5, schedule 1, Member Allowances rates table	Old rates	New 2023 rates	Jenni Harding	Steve Pink	25/05/23
17/10/23	SECTION G 1 – INTRODUCTION TO THE OFFICER SCHEME OF DELEGATION		Multiple changes to include the wording of the executive leadership team and executive heads. Correction of terminology following new management team	Jo McIntosh	N/A	18/10/23
29/01/24	Council Standing Order s , Part B, para 2		Corrected the time period for submission of the summary text of an address to be made at Council be received no later than 12 noon 4 clear working days before the meeting	Jo McIntosh	Correction made under delegated powers	26/01/24