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# **HAVANT BOROUGH COUNCIL**

## **CONSTITUTION OF THE COUNCIL**



# CONSTITUTION OF THE COUNCIL

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# **PART 1**

## **SUMMARY AND EXPLANATION**



# Memorandum to the Council's Constitution

1. Havant Borough Council is a local non-metropolitan district 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.
2. The Council reviews regularly and publishes its Council Strategy which sets out its objectives, values, priorities and principal activities. The Strategy describes the results that the Council is seeking to achieve and how it achieves them. The Council Strategy has regard to the wide powers and the specified constraints of legislation, in particular the responsibility for the economic, social and environmental wellbeing of the area.
3. The membership of the Council comprises the borough councillors elected for a four year term by those eligible to do so. It is led by a Leader and Cabinet of senior councillors. The Council is served by its councillors and an executive team.
4. Local councils are obliged to publish a Constitution, as adopted by the Council. This document sets out how the Council operates, how decisions are made and by whom, and the procedures that are followed to enable efficient, transparent and accountable decision-making.
5. The purposes of this Constitution are:
  - a. To enable the Council to provide a framework for clear leadership to the community
  - b. To enable decisions to be taken efficiently, effectively and transparently
  - c. To support accountability to and involvement of residents, businesses, organisations and other interested stakeholders in the processes of decision making
  - d. To set out the framework for corporate governance and ethics, including clarity of roles and responsibilities
6. In addition, the Council maintains an online Policy Hub which includes the Council's numerous codes and policies in support of this Constitution.
7. This Constitution is reviewed, updated and published regularly by the Monitoring Officer and the senior executive team, and when necessary by the full Council.

# Decision-Making at Havant Borough Council

## Committee Structure

( ) denotes number of Councillors appointed

Council is chaired by the Mayor

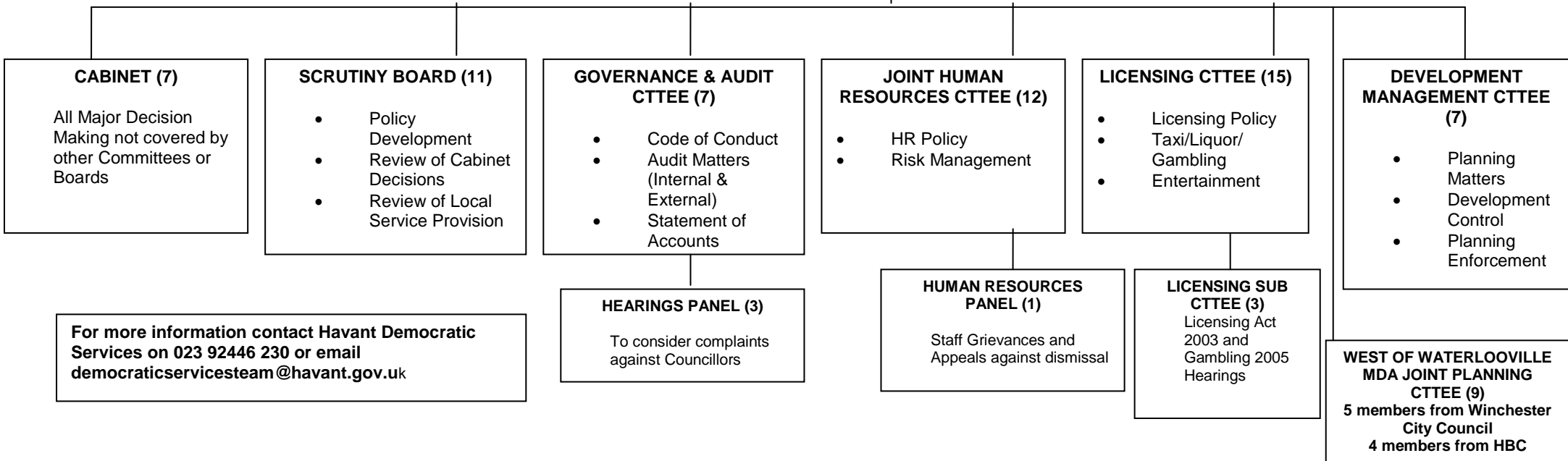
Cabinet is chaired by the Leader

Chairmen are appointed by Council

Joint HR Committees are comprised of 6 Havant Councillors and 6 East Hampshire Councillors

**COUNCIL (38)**

- Policy Framework
- Budget Framework
- Appointment of Mayor
- Appointment of Leader
- Appointment of Committees/Boards



For more information contact Havant Democratic Services on 023 92446 230 or email [democraticservicesteam@havant.gov.uk](mailto:democraticservicesteam@havant.gov.uk)



## **PART 2**

# **HOW THE COUNCIL OPERATES**



# Article 1

## Members of the Council

### 1.1 Composition and eligibility

- (a) **Composition.** The Council comprises 38 members, otherwise called Councillors. Councillors are elected by the voters of each ward in accordance with a scheme approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the area or those living or working in the area are eligible to hold the office of Councillor.

### 1.2 Election and terms of Councillors

- (a) The ordinary election of a third (or as near as may be) of all Councillors is held on the first Thursday in May in each year, except that in 2005, and every fourth year after, there will be no regular election. The term of office of Councillors (except those elected in by elections) is four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors (except those elected in by elections) will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 1.3 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) bring views of their communities into the Council's decision-making process;
  - (iii) effectively represent the interests of their ward and of individual constituents;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) respond to constituents' enquiries and representations, fairly and impartially;
  - (vi) participate in the governance and management of the Council;
  - (vii) be available to represent the Council on other bodies; and
  - (viii) maintain the highest standards of conduct and ethics.

**Note:** The differing roles and responsibilities of members are set out in more detail in [The Differing Roles of an Elected Councillor](#) which can be found in the online Policy Hub

## Article 2

### Residents and The Council

#### 2.1 Residents' rights

- (a) Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Section F of Part 3 of this Constitution:
- (i) **Voting.** Residents on the electoral roll for the area have the right to vote.
  - (ii) **Information.** Residents have the right to:
    - (1) Attend meetings of the Council, Cabinet and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
    - (2) Find out from the Council and Council Forward Plan what decisions will be taken by the Council and/or Cabinet and when;
    - (3) See reports and background papers (except where confidential or exempt), and any records of decisions made by the Council, its Committees and the Cabinet;
    - (4) Inspect the Council's accounts and make their views known to the external auditor; and
    - (5) Exercise their rights to obtain information held by the Council.
  - (iii) **Participation.**
    - (1) Residents have the right to contact their local Councillor about any matter/s of concern to them.
    - (2) Residents may have the right to participate in Council meetings in accordance with the Council's adopted deputation schemes
  - (iv) **Complaints.** Residents have the right to complain to:
    - (1) The Council itself under its complaints scheme;
    - (2) The Ombudsman after using the Council's own complaints scheme; and
    - (3) The Monitoring Officer about a potential breach of the Code of Conduct for Councillors.

#### 2.2 Residents' responsibilities

Residents must not be violent, abusive or threatening to Councillors or officers and must not wilfully damage things owned by the Council, Councillors or officers.

## Article 3

### The Full Council and Committees

#### 3.1 Decisions Reserved to full Council

- (a) The Council will exercise the following functions:
- (i) appointing the Mayor
  - (ii) appointing the Deputy Mayor
  - (iii) adopting and changing the Constitution, but: The Monitoring Officer is authorised to make such changes to the Constitution as are necessary to reflect alterations in the Council's management structure and changes in the law insofar as such changes are consistent with Council policy. Any other change to the Constitution will only be approved by the full Council after consideration by the Governance and Audit Committee.
  - (iv) Approving, adopting, amending, modifying, revising, carrying, withdrawing or revoking (unless, by law, expressly the responsibility of the Cabinet) any plan or strategy which forms part of the policy framework or budget;
  - (v) the approval, for the purposes of public consultation in accordance with regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan;
  - (vi) the approval, for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the Planning and Compulsory Purchase Act 2004, of a development plan document;
  - (vii) approving the Statement of Licensing and Gambling Policies;
  - (viii) making Executive Decisions which are contrary to the Policy Framework or contrary to, or not wholly in accordance with the Budget, subject to an urgent procedure;
  - (ix) appointing the Leader;
  - (x) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
  - (xi) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
  - (xii) adopting a Councillors' allowances scheme;

- (xiii) changing the name of the area, conferring the title of honorary alderman or freedom of the district;
- (xiv) making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation;
- (xv) passing a resolution to change a scheme for elections;
- (xvi) deciding whether to make proposals for a change in governance arrangements [as to form of executive], deciding whether the change should be subject to approval in a referendum and passing a resolution to make a change;
- (xvii) including a provision in executive arrangements to remove the executive leader by resolution and passing such a resolution;
- (xviii) making an order giving effect to recommendations made in a community governance review;
- (xix) all local choice functions set out in Part 3 of this Constitution, which the Council has decided should be undertaken by itself; and
- (xx) all other matters which, by law, must be reserved to Council.

### 3.2 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
  - (i) Local Development Framework documents;
  - (ii) Plans and alterations which together comprise the Development Plan;
  - (iii) Licensing Authority Policy Statement of Principles;
  - (iv) Council's Corporate Strategy.
  
- (b) **Budget.** This 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.

### 3.3 The full Council

- (a) **The full Council is** a meeting of all Councillors. The Leader may attend, speak and vote at all Council meetings.
- (b) **There are three types of full Council meeting:** the annual meeting, ordinary meetings and extraordinary meetings arranged at short

notice. There will be five ordinary meetings of Council per year. They will be conducted in accordance with the Council Standing Orders in Section A of Part 3 of this Constitution.

- (c) **Full Council provides a forum** to debate important issues affecting the District.
- (d) **Full Council can discharge all the Council's non-executive** functions, but it cannot discharge executive functions or take executive decisions. The list of "Non-executive functions" is fixed by law, principally the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. In outline, they are set out in Table 1 below.

<b>Table 1</b>	
<b>Non-executive functions</b>	
Functions relating to the following are non-executive. This list is non exhaustive and full details can be found in the legislation.	
(a)	Town and country planning and development control, including enforcement and setting fees and charges
(b)	Licensing and registration, including enforcement and setting fees and charges.
(c)	Health and Safety at work enforcement.
(d)	Elections.
(e)	Functions relating to the name and status of the area, and to community governance (parish and town councils).
(f)	Making standing orders.
(g)	Overview and Scrutiny.
(h)	Making arrangements for the proper administration of the Council's financial affairs
(i)	Approving the statement of accounts, income and expenditure and balance sheet.
(j)	Appointing staff and determining their terms and conditions, including procedures for dismissal.
(k)	Smoke-free premises.
(l)	Pensions.
(m)	Footpaths, bridleways, rights-of-way and the like.
(n)	Sea fisheries, limestone pavement orders, closing orders

### 3.4 Responsibility for functions

- (a) The Council will allocate responsibilities for and maintain a record in Part 3 of this Constitution setting out the responsibilities for the discharge of:
  - (i) The Council's functions which are not the responsibility of the Cabinet; and
  - (ii) Local choice functions which are not the responsibility of the Cabinet

## **Article 4**

### **The Mayor of the Council**

- 4.1** The Mayor and Deputy Mayor of the Council will be elected by the Council annually.
- 4.2** The Mayor of the Council, the first citizen of the Council, has an important role carrying out the civic and ceremonial duties of the Council, upholding the principles of the Constitution and driving good governance amongst members of the Council.
- 4.3** The roles and functions of the Mayor of the Council and, in his or her absence, the Deputy Mayor are:
- (a) to be the civic head of the Borough and act at all times in an inclusive non partisan manner
  - (b) To preside over meetings of the Council;
  - (c) To uphold and promote the purposes of the Constitution; and
  - (d) To ensure the Council is a forum for debate of matters of interest to the local community and a place at which Councillors who are not on the Executive are able to hold the Executive members to account.

**Note:** The detailed duties and responsibilities of the Mayor and Deputy Mayor are set out [The Differing Roles of an Elected Councillor](#) which can found in the online Policy Hub.



## **Article 5**

### **Non-Executive Functions**

- 5.1** To discharge non-executive functions which are not reserved to full Council alone, the Council has established the following ordinary committees.
- (a) DEVELOPMENT MANAGEMENT COMMITTEE**
  - (b) LICENSING COMMITTEE**
  - (c) GOVERNANCE & AUDIT COMMITTEE**
  - (d) JOINT HUMAN RESOURCES COMMITTEE**
  - (e) WEST OF WATERLOOVILLE MAJOR DEVELOPMENT AREA (MDA) JOINT PLANNING COMMITTEE**
- 5.2** The terms of reference of these Committees and their delegated powers are set out in the following pages of this Article.
- 5.3** Where the Council has delegated responsibility for the discharge of non-executive functions to officers, these delegations will appear in the Scheme of Delegation to Officers in Section D of Part 3 of this Constitution.

## **5.4 DEVELOPMENT MANAGEMENT COMMITTEE**

**(a) Membership:** 7 members

**(b) Functions**

	<b><u>Function</u></b>	<b><u>Provision of Act or Statutory Instrument</u></b>	<b><u>Delegation to Officers/Service Manager</u></b>
(i)	<b>Functions relating to town and country planning and development control</b>		
(1)	Power to determine applications for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.	Head of Planning* See note below
(2)	Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.	Head of Planning* See note below
(3)	Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.	Head of Planning* See note below
(4)	Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.	Head of Planning* See note below
(5)	Duties relating to the making of determinations of planning applications.	Sections 69 <b>and</b> the Town and Country Planning (General Development Procedure) Order 1995 (S.I.1995/419) and directions made thereunder.	Head of Planning* See note below
(6)	Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I.1992/1492).	Head of Planning* See note below

(7)	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6,7,11,17,19,20,21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I.1995/418).	Head of Planning* See note below
(8)	Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.	Head of Planning* See note below
(9)	Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.	Head of Planning* See note below
(10)	Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.	Head of Neighbourhood Support
(11)	Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783)	Head of Planning* See note below
(12)	Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.	Head of Planning* See note below
(13)	Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.	Head of Neighbourhood Support
(14)	Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.	Head of Neighbourhood Support
(15)	Power to issue a temporary stop notice	Section 171E of the Town and Country Planning Act 1990.	Head of Neighbourhood Support
(16)	Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.	Head of Neighbourhood Support
(17)	Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.	Head of Neighbourhood Support

(18)	Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c.10).	Head of Planning* See note below
(19)	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of schedule 14 to that Act.	Head of Planning* See note below
(20)	Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.	Head of Neighbourhood Support
(21)	Power to determine application for listed building consent, and related powers.	Section 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c.9).	Head of Planning* See note below
(22)	Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, applied by section 74(3) of that Act.	Head of Planning* See note below
(23)	Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 (S.I.1990/1519).	Head of Planning* See note below
(24)	Power to serve a building	Sections 3(1) and 4(1) of the Planning (Listed	Head of Neighbourhood

	preservation notice, and related powers.	Buildings and Buildings in Conservation Areas) Act 1990.	Support
(25)	Power to issue listed building enforcement notices.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	Head of Neighbourhood Support
(26)	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	Head of Neighbourhood Support
(27)	Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	Head of Neighbourhood Support
(28)	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	Head of Neighbourhood Support
(ii)	<b>Miscellaneous Functions relating to highways.</b>		
(1)	Power to authorise stopping up or diversion of footpath, bridleway or restricted byways.	Section 257 of the Town and Country Planning Act 1990.	Head of Planning* See note below
(2)	Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.	Head of Planning* See note below
(iii)	<b>Trees and Hedgerows</b>		
(1)	Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and Trees Regulations 1999.	Head of Neighbourhood Support
(2)	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997.	Head of Neighbourhood Support
(3)	Powers relating to complaints about	Part 8 of the Anti-Social Behaviour Act 2003.	Head of Neighbourhood

high hedges.

Support

(iv) **Conditions etc. and Enforcement**

(1) The Functions of -

- (a) Imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted in the exercise of any of the functions set out in sections I, II, III and,
- (b) determining any other terms to which any such approval, consent, licence, permission or registration is subject.

**Note:** Functions marked with an \* are delegated to the Head of Planning as set out in Part B of the Scheme of Delegations.

## 5.5 LICENSING COMMITTEE

(a) **Membership:** 15 Members

(b) **Functions**

	<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>	<u>Delegation to Officers/Service Manager</u>
(i)	<b>Licensing and Registration Functions</b>		
(1)	Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c.62).	Head of Neighbourhood Support
(2)	Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).	Head of Neighbourhood Support
(3)	Power to licence hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c.67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of Neighbourhood Support
(4)	Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of Neighbourhood Support
(5)	Power to license operators of	Sections 55 to 58, 62 and 79 of the Local	Head of Neighbourhood

	<b><u>Function</u></b>	<b><u>Provision of Act or Statutory Instrument</u></b>	<b><u>Delegation to Officers/Service Manager</u></b>
	hackney carriages and private hire vehicles.	Government (Miscellaneous Provisions) Act 1976.	Support
(6)	Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act 2005 (Commencement No 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272) (“the Gambling Act Order”).	Head of Neighbourhood Support
(7)	Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.	Head of Neighbourhood Support
(8)	Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) and (4) of the Gambling Act Order.	Head of Neighbourhood Support
(9)	Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 as saved for certain purposes by article (4)(2) (l) and (m) of the Gambling Act Order.	Head of Neighbourhood Support
(10)	Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article (5)(2) (a) and (3) of the Gambling Act Order.	Head of Neighbourhood Support
(11)	Power to grant permits in respect of	Schedule 3 to the Lotteries and	Head of Neighbourhood



	<b><u>Function</u></b>	<b><u>Provision of Act or Statutory Instrument</u></b>	<b><u>Delegation to Officers/Service Manager</u></b>
	premises where amusements with prizes are provided.	Amusements Act 1976 as saved for certain purposes by article (5)(2)(d) and (5) of the Gambling Act Order.	Support
(12)	Power to license sex shops and sex cinemas, and sexual entertainment venues.	Section 2 & Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).	Head of Neighbourhood Support
(13)	Power to license performances of hypnotism.	The Hypnotism Act 1952 (c.46).	Head of Neighbourhood Support
(14)	Power to license premises and practitioners for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	Head of Neighbourhood Support
(15)	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c.53).	Head of Neighbourhood Support
(16)	Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.	Head of Neighbourhood Support
(17)	Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c.32); sections 2 to 16 of the Game Licensing Act 1860 (c.90), section 4 of the Customs and Inland Revenue Act 1883 (c.10), sections 12(3) and 27 of the Local Government Act 1874 (c.73), and section 213 of the Local Government Act 1972 (c.70).	Head of Neighbourhood Support
(18)	Power to register and license	Article 31 (i) (b)	Head of Neighbourhood

	<b><u>Function</u></b>	<b><u>Provision of Act or Statutory Instrument</u></b>	<b><u>Delegation to Officers/Service Manager</u></b>
	premises for the preparation of food.	Reg 882/2004 Article 31 (i) (a) Reg 882/2004	Support
(19)	Power to license scrap retail dealers and collectors.	Scrap Metal Dealers Act 2013	Head of Neighbourhood Support
(20)	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c.52).	Head of Neighbourhood Support
(21)	Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).	Head of Neighbourhood Support
(22)	Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c.60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.	Head of Neighbourhood Support
(23)	Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c.35); section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Acts 1964 and 1970 (1964 c.70 and 1970 c.70); section 1 of the Breeding of Dogs Act 1973 (c.60), and sections 1 and 8 of the Breeding of Dogs (Welfare) Act 1999.	Head of Neighbourhood Support
(24)	Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c.38).	Head of Neighbourhood Support
(25)	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c.37).	Head of Neighbourhood Support

	<b><u>Function</u></b>	<b><u>Provision of Act or Statutory Instrument</u></b>	<b><u>Delegation to Officers/Service Manager</u></b>
(26)	Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c.38).	Head of Neighbourhood Support
(27)	Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I.1999/646).	Head of Neighbourhood Support
(28)	Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c.31) and section 2 of the House to House Collections Act 1939.	Head of Neighbourhood Support
(29)	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40).	Head of Neighbourhood Support
(30)	Duty to keep register of food business premises.	Article 31 (i) (b) Reg 882/2004 Article 31 (i) (a) Reg 882/2004	Head of Neighbourhood Support
(31)	Power to register food business premises.	Article 31 (i) (b) Reg 882/2004 Article 31 (i) (a) Reg 882/2004	Head of Neighbourhood Support
(32)	Power to make order identifying place as a designated public place for purposes of police powers in relation to alcohol consumption.	Section 13 (2) of Criminal Justice and Police Act 2001.	Head of Neighbourhood Support
(33)	Power to grant permission for provision etc of services, amenities, recreations & refreshment facilities on highway and related powers	Sections 115E, 115F and 115K of Highways Act 1980	Head of Neighbourhood Support

	<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>	<u>Delegation to Officers/Service Manager</u>
(34)	Duty to publish notice in respect of proposal to grant permission under S115E of the Highways Act	Section 115G of Highways Act	Head of Neighbourhood Support
(35)	Power to licence Houses in Multiple Occupation	Section 64 of Housing Act 2004	Head of Neighbourhood Support
(ii)	<b>Functions relating to health and safety at work</b>		
(1)	Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health & Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health & Safety at Work etc. Act 1974.	Head of Neighbourhood Support
(iii)	<b>Conditions etc. and Enforcement</b>		
(1)	The functions of imposing any condition, limitation or other restriction on any approval, consent, licence, permission or registration granted in the exercise of any of the above functions and determining any other terms to which any such approval, consent, licence, permission or registration is subject.		Head of Neighbourhood Support
(2)	The function of determining whether, and in what manner, to enforce –		Head of Neighbourhood Support
	(a) any contravention or failure to comply with an approval, consent, licence, permission or registration granted as mentioned above; or		
	(b) any failure to comply with a condition,		

<u>Function</u>	<u>Provision of Act or Statutory Instrument</u>	<u>Delegation to Officers/Service Manager</u>
	limitation or term to which any such approval, consent, licence, permission or registration is subject.	
(3) The function of –		Head of Neighbourhood Support
(a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned above, or any condition, limitation or term to which it is subject, or		
(b) revoking any such approval, consent, licence, permission or registration.		

**(c) Delegation**

- (i) In exercising the above powers and responsibilities, the Committee and, unless the Committee directs otherwise, the relevant Officer shall have delegated powers to make decisions and act on behalf of the Council, except that in the following matters, neither the Committee nor the relevant Officer shall exercise their delegated powers, but shall submit recommendations to the Council:
- (1) decisions on the control of hackney carriage numbers.
  - (2) the fixing of hackney carriage fares
  - (3) any item which the Council calls in for determination
  - (4). any function conferred on the Council under Section 5 of the Act (statement of licensing policy).
  - (5) the exceptions in Section 10 (4) of the Licensing Act 2003 to an officer of the licensing authority as follows.

<u>Matter to be dealt with</u>	<u>Licensing Subcommittee</u>	<u>Head of Neighbourhood Support</u>
A Application for personal licence.	In cases of police objection	If no objection made
B Application for personal licence with unspent convictions.	All cases	

<u>Matter to be dealt with</u>	<u>Licensing Subcommittee</u>	<u>Head of Neighbourhood Support</u>
C Application for personal licence with convictions of an offence during the application period.	All cases	
D Application for premises licence/club premises certificate.	If relevant representation made and not withdrawn	If no relevant representation made
E Application for provisional statement.	If relevant representation made and not withdrawn	If no relevant representation made
F Application to vary premises licence/club premises certificate.	If relevant representation made and not withdrawn	If no relevant representation made
G Application to vary designated premises supervisor.	In cases of police objection	All other cases
H Request to be removed as a designated premises supervisor		All cases
I Application for transfer of premises licence.	In cases of police objection	All other cases
J Applications for interim authority.	In cases of police objection	All other cases
K Application to review premises licence/club premises certificate.	All cases	Not applicable
L Decision on whether a complaint is irrelevant, frivolous, vexatious etc	All cases	Not applicable

<u>Matter to be dealt with</u>	<u>Licensing Subcommittee</u>	<u>Head of Neighbourhood Support</u>
M Decision to object when local authority is a consultee and not the relevant authority considering the application.	All cases	Not applicable
N Decision about police objection to temporary event notice.	All cases	Not applicable
O Decisions on applications for minor variations to a premises/club premises certificate	Not applicable	All cases
P In cases where the magistrates court has determined the licence on appeal	Not applicable	All Cases
Q Decisions on applications for minor variations	Not applicable	All Cases

(6). the exception of any function conferred on the Council under sections 166, and 349 of the Gambling Act 2005.

(7). the exceptions in Section 154(4) of the Gambling Act 2005 to an officer of the licensing authority as set out below

<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Licensing Sub-Committee</u>	<u>Head of Neighbourhood Support</u>
A Five year licensing policy.	✓		
B Policy not to permit casinos.	✓		
C Application for premises licences.		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn

<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Licensing Sub-Committee</u>	<u>Head of Neighbourhood Support</u>
D Application for a variation to a licence.		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
E Application for a transfer of a licence.		Where representations have been received from the Commission	Where no representations received from the Commission
F Application for a provisional statement.		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
G Application for a temporary event notice		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
H Application for a street trading licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
I Application for a pavement café licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
J Review of a premises licence.		All cases	
K Application for club gaming/club		Where objections have been	Where no objections made/objections



<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Licensing Sub-Committee</u>	<u>Head of Neighbourhood Support</u>
machine permits.		made (and not withdrawn)	have been withdrawn
L Cancellation of club gaming/club machine permits.		All cases	
M Applications for other permits.			All cases
N Cancellation of licensed premises gaming machine permits.			All cases
O Consideration of Temporary Use Notice.			All cases
P Decision to give a counter notice to a Temporary Use Notice.		All cases	
Q Application for permit for Amusement with Prizes machines.		For permit for more than two gaming machines	For permit for no more than two gaming machines
R Application by holder of a community premises licence to disapply for			All cases

<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Licensing Sub-Committee</u>	<u>Head of Neighbourhood Support</u>
the requirement for a designated premises supervisor.			
S Cancellation of club gaming/club machine permits.		All cases	
(8) To establish one or more sub committees consisting of three members of the Committee.			

## 5.6 GOVERNANCE & AUDIT COMMITTEE

(a) **Membership:** 7 members

(b) **Functions**

- (i) To receive and approve the authority's statement of accounts, including the Annual Governance Statement in accordance with the Accounts and Audit Regulations 2015.
- (ii) To consider external audit and inspection reports in the Audit Commission's Annual Audit and Inspection Letter in accordance with the Accounts and Audit Regulations 2015 and to monitor the Council's response to individual issues of concern identified.
- (iii) To consider and approve the findings of the Council's annual review of the effectiveness of its system of internal control under the Accounts and Audit Regulations 2015, including the effectiveness of its system of internal audit.
- (iv) In furtherance of the Council's duty to make arrangements for the proper administration of its financial affairs and the Committee's responsibilities under the Accounts and Audit Regulations 2015 set out above.
- (v) To obtain assurance over the Council's corporate governance and risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- (vi) To review and approve (but not direct) the terms of reference for internal audit and an Internal Audit Strategy.
- (vii) To review and approve (but not direct) the internal annual audit programme considering the effectiveness of proposed and actual coverage in providing adequate assurance over the Council's arrangements for governance, risk management and system of internal control.
- (ix) To monitor the implementation and outcomes of the Council's internal audit programme and where required, to review summary and individual audit reports with significant implications for financial management and internal control.
- (x) To seek assurance on the adequacy of management response to internal audit advice, findings and recommendations in the form of implementation of agreed action plans.
- (xi) To receive the Annual Report of the Head of Internal Audit.

- (xii) To consider the external auditor's annual letter, relevant reports and the annual report to those charged with governance on issues arising from the audit of the Statement of Accounts.
  - (xiii) To engage with the external auditor and external inspection agencies and other relevant bodies to ensure that there are effective relationships between external and internal audit.
  - (xiv) To make recommendations to the Chief Finance Officer and Monitoring Officer in respect of Section M of Part 3 of this Constitution (Financial Regulations).
  - (xv) To consider the Code of Corporate Governance.
  - (xvi) To consider and advise the Council on the Annual Governance Statement.
  - (xvii) To consider the Annual Ombudsman Report.
  - (xviii) To be responsible for the ethical standards framework for the Council and receive reports from the Monitoring officer.
  - (xix) Granting dispensations to District Councillors from requirements relating to disclosable pecuniary interests as set out in the Code of Conduct and as stated in Section 33 of the Localism Act 2011.
  - (xx) carry out the monitoring and advisory role for matters concerning changes to the Council's Constitution upon receiving advice on proposed changes from the Monitoring Officer.
- (c) **Delegation:** In exercising the above powers and responsibilities, the Committee shall have delegated power to make decisions and act on behalf of the Council.
- (d) **Sub Committee:** The Committee may from time to time appoint a sub committee to deal with complaints against Councillors and any breaches of the adopted Code of Conduct. The sub committee shall consist of 3 members of the Governance and Audit Committee.
- Note:** The Committee may itself determine not to exercise its delegated powers and instead make recommendations to the Council.

## **5.7 JOINT HUMAN RESOURCES COMMITTEE**

(a) **Membership:** 12 members (6 from each Authority)

(b) **Functions:**

- (i) The purpose of the Joint HR Committee is to take a corporate strategic view on each Council's Human Resource policies to ensure they contribute effectively to the overall delivery of the corporate strategy and to ratify officer led decisions on employment matters (where appropriate).
- (ii) With regard to appointments:
  - (1) to note the appointment of Chief Executive to the Council;
  - (2) with regard to posts of Executive Directors the Committee has the right to comment on proposed appointments (being made by Panels set up for that purpose in accordance with (4) below) but without a right of veto; and
  - (3) to note any pay award for Chief Officers determined by the Chief Executive in accordance with the Councils' Pay Policy Statements.
  - (4) to appoint a committee or sub committee for the purposes of appointing the Head of Paid Service or a chief officer (other than in an acting basis)
- (iii). With regard to pension matters, appeals and dismissals:
  - (1) Agree payments in relation to termination of employment when required and any severance package exceeding £100,000;
  - (2) To appoint Panels of three Councillors as appropriate to hear appeals against any officer who is appointed at Service level or above for dismissal or stage two of the Grievance Procedure; and
  - (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 Service Manager level.
- (iv) To adopt new policy aims in respect of the following staffing matters:
  - (1) recruitment and resourcing;
  - (2) pay, pensions and other terms and conditions of employment;

- (3) employee relations;
- (4) learning;
- (5) health and absence management;
- (6) health and safety (in relation to Council staff and Council activities);
- (7) dignity at work/equal opportunities; and
- (8) conduct of employees.

**5.8 WEST OF WATERLOOVILLE MAJOR DEVELOPMENT AREA (MDA) JOINT PLANNING COMMITTEE**

(a) **Membership:** 5 Members from Winchester City Council and 4 members from Havant Borough Council

(b) **Functions**

(i) The Joint Committee is established by Havant Borough Council and Winchester City Council. The area within which the Joint Committee is to exercise its authority is the West of Waterlooville Major Development Area, as shown on the plan attached as Appendix A.

(c) **Functions Delegated to the Joint Committee**

(i) Subject to the (c)(ii) and (c)(iv) below, the following functions shall be delegated to the Joint Committee insofar as they relate to matters within the West of Waterlooville Major Development Area:

Power to determine applications for planning permission.
Power to determine applications to develop land without compliance with conditions previously attached.
Power to grant planning permission for development already carried out.
Duties relating to the making of determinations of planning applications.
Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
Power to enter into agreement regulating development or use of land.

The delegation includes all the powers necessary to facilitate, or otherwise incidental or conducive to, the discharge of the functions of the Joint Committee.

(ii) The following functions shall be reserved to the appointing Authorities and shall not be within the powers of the Joint Committee:

Power to decline to determine application for planning permission.
Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
Power to issue a certificate of existing or proposed lawful use or development.
Power to serve a completion notice.

Power to grant consent for the display of advertisements.
Power to authorise entry onto land.
Power to require the discontinuance of a use of land.
Power to serve a planning contravention notice, breach of condition notice or stop notice.
Power to issue a temporary stop notice
Power to issue an enforcement notice.
Power to apply for an injunction restraining a breach of planning control.
Power to determine applications for hazardous substances consent, and related powers.
Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
Power to require proper maintenance of land.
Power to determine application for listed building consent, and related powers.
Duties relating to applications for listed building.
Power to serve a building preservation notice, and related powers.
Power to issue listed building enforcement notices.
Powers to acquire a listed building in need of repair and to serve a repairs notice.
Power to apply for an injunction in relation to a listed building.
Power to execute urgent works.
Power to determine applications to fell or carry out works to trees that are the subject of a Tree Preservation Order

- (iv) The Joint Committee shall not have authority to take any decision which is contrary to or not wholly in accordance with the budget approved by Havant Borough Council or Winchester City Council for the Joint Committee or is contrary to an approved policy or strategy of either of the authorities.
- (v) The functions delegated to the Joint Committee shall not affect the schemes of delegations for officers for determining planning applications adopted by Winchester City Council and Havant Borough Council.



(d) **Quorum**

- (i) The quorum for a meeting of the Joint Committee shall be four Members, with at least one Member from each Authority.

(e) **Chairman and Vice-Chairman of the Joint Committee**

- (i) The Chairman of the Joint Committee shall be the Chairman of the Planning Development Control Committee of Winchester City Council.
- (ii) The Vice-Chairman of the Joint Committee shall be the Chairman of the Development Management Control Committee of Havant Borough Council.

(f) **Secretary to the Joint Committee**

- (i) The Joint Committee shall be supported by the Secretary to the Joint Committee, who is an officer of either Winchester City Council or Havant Borough Council.
- (ii) The functions of the Secretary of the Joint Committee shall be:
- (1) to maintain a record of membership of the Joint Committee;
  - (2) to summon meetings of the Joint Committee;
  - (3) to prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairman and the Vice Chairman of the Joint Committee;
  - (4) to keep a record of the proceedings of the Joint Committee;
  - (5) to take such administrative action as may be necessary to give effect to decisions of the Joint Committee;

(g) **Convening of Meetings of the Joint Committee**

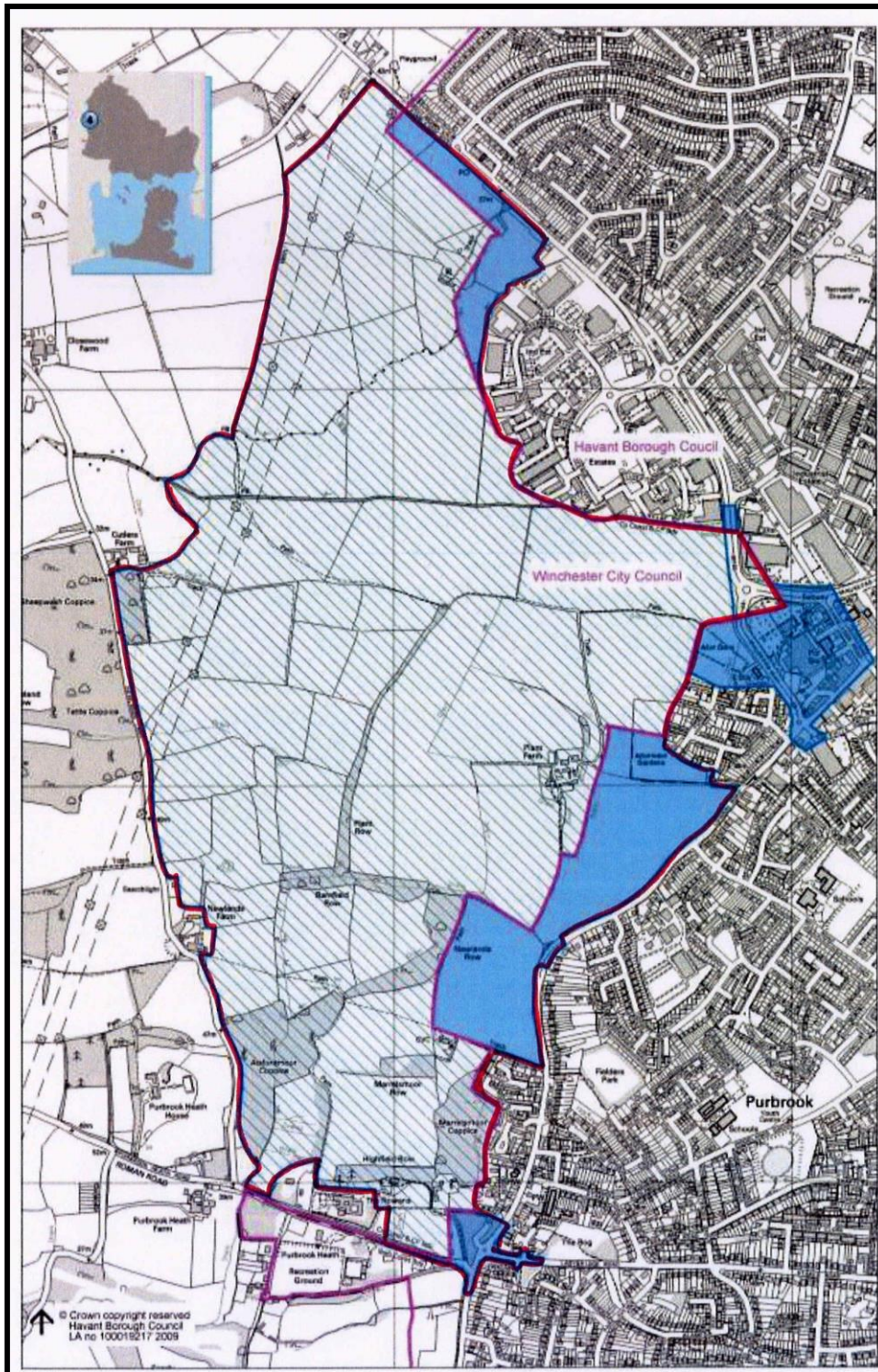
- (i) Meetings of the Joint Committee shall be held at such times, dates and places as may be notified to the members of the Joint Committee by the Secretary to the Joint Committee.

(h) **Procedure at Meetings of the Joint Committee**



- (i) The Joint Committee shall, unless the member of the Joint Committee presiding at a meeting or the Joint Committee determines otherwise, conduct its business in accordance with the Constitution of Winchester City Council, except in so far as may be specified to the contrary in this Constitution.

- (ii) The Chairman of the Joint Committee, or in his/her absence the Vice Chairman of the Joint Committee, or in his/her absence the member of the Joint Committee elected for this purpose, shall preside at any meeting of the Joint Committee.
  - (iii) Subject to h(iv) below, questions shall be decided by a majority of the votes of the members present and voting.
  - (iv) The chairman shall have a second or casting vote.
  - (v) Where, immediately following the taking of a decision, at least two members of the Joint Committee indicate that the decision should be referred back and made by the relevant local planning authority(ies) for the application, the matter shall stand referred to the appropriate local planning authorities for determination.
- (h) **Amendment of the Constitution of the Joint Committee**
- (i) The constitution of this Joint Committee can only be amended by resolution of all appointing Authorities.

# Waterlooville MDA



Site 4 in Havant Borough Core Strategy

-  MDA Boundary
-  Land in Havant Borough

## **Article 6**

### **Scrutiny Board**

#### **6.1 Terms of Reference**

- (a) The Council will appoint a Scrutiny Board to discharge the functions conferred by section 9F of the Local Government Act 2000.

#### **6.2 Membership**

- (a) The Board shall consist of 11 members, one of whom shall be appointed as Chairman. Members of the Cabinet cannot be appointed to the Scrutiny Board.

#### **6.3 Roles and Responsibilities**

- (a) Within its terms of reference, the Scrutiny Board may:
  - (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
  - (iii) make reports and/or recommendations to the full Council and/or the Cabinet on any matter affecting the area or its inhabitants;
  - (iv) exercise the right to call-in decisions made but not yet implemented by the Cabinet and to recommend that the decision be reconsidered by the person who made it;
  - (v) arrange for its function under (i) above as regards any decision to be exercised by the full Council;
  - (vi) require members of the Cabinet or officers of the authority to attend before it to answer questions, and invite other persons to attend;
  - (vii) appoint one or more sub-committees and arrange for the discharge of any of its functions by such a sub-committee;
  - (viii) appoint up to 5 Scrutiny and Policy Development Panels to undertake reviews and monitor the performance of the Cabinet and Cabinet Leads and an unlimited number of task and finish panels to undertake reviews on behalf of the Board; and

- (ix) appoint up to five Scrutiny Leads to be responsible for leading the Scrutiny and Policy Development Panels

#### **6.4 Specific functions**

- (a) **Policy development and review.** The Scrutiny Board may:
  - (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (ii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question members of the Cabinet and/or committees and chief officers about their views on issues and proposals affecting the area; and
  - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** The Scrutiny Board may:
  - (i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and Council officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question members of the Cabinet and/or committees and chief officers about their decisions and performance;
  - (iv) make recommendations to the Cabinet, Cabinet Lead and/or appropriate committee of the Council or Cabinet and/or Full Council arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and

- (vi) question and gather evidence from any person (with their consent).
- (c) **Annual report.** The Scrutiny Board must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## 6.5 Allocation of Functions

- (a) **The Scrutiny Board** is the principal Overview and Scrutiny body and is responsible for.
  - (i) monitoring the portfolio of the Leader of the Council;
  - (ii) monitoring the work of the Panels; and
  - (iii) considering the reports of its panels and sub committees and making recommendations to the Council, Cabinet or individual decision maker
- (b) **Scrutiny and Policy Development Panels** are appointed by the Scrutiny Board to undertake reviews and monitor the performance of Cabinet Leads. These Panels may:
  - (i) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (ii) assist the Council and Cabinet in the development of the budget and policy framework;
  - (iv) produce a report and make recommendations to the Scrutiny Board arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to attend meetings of the panel about their activities and performance;
  - (vi) question and gather evidence from any person (with their consent); and
  - (vii) review progress made with the implementation of recommendations of scrutiny reviews adopted by the Council, Committees of the Council or the Cabinet.

## Notes

- (1) All Councillors, who are not members of the Cabinet, may be appointed to one or more of the Panels. The roles of these Councillors are set out **The Differing Roles of an Elected Councillor** which can found in the online Policy Hub.
  - (2) The Scrutiny and Policy Development Panels do not have any powers to make decisions and are not committees or sub committees. The Council's Standing Orders and Access to Information Standing Orders do not therefore apply to these Panels.
- (c) **Task and Finish Panels** may be established to undertake reviews, on behalf of the Scrutiny Board, where the matter to be reviewed is considered significant and/all falls within the terms of reference of more than one of the Scrutiny and Policy Development Panels. These Panels will have the same powers as the Scrutiny and Policy Development Panels. The membership of the panels will be determined by the Monitoring Officer in consultation with the Chairman of the Scrutiny Board

**Note:** The Task and Finish Panels will not have any powers to make decisions and are not committees or sub committee. The Council's Standing Orders and Access to Information Standing Orders do not therefore apply to these Panels.

- (d) **Crime and Disorder Panel.** This is a Sub Committee appointed by the Scrutiny Board for the purposes of Section 19 of the Police and Justice Act 2006 and scrutinises the way in which persons and bodies responsible for tackling crime and disorder discharge their functions

**Note:** The Council Standing Orders and Access to Information Standing Orders apply to this Panel.

**Note:** The roles of the Chairman of the Scrutiny Board, Scrutiny Leads and scrutiny councillors are set out [The Differing Roles of an Elected Councillor](#) which can found in the online Policy Hub.

## **Article 7**

### **The Cabinet**

#### **7.1 Role**

- (a) The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### **7.2 Form and composition**

- (a) The Cabinet is appointed by the Leader of the Cabinet and will consist of the Leader together with between two and nine other Councillors appointed to the Cabinet by the Leader (one of whom will be appointed by the Leader to act as Deputy Leader).

#### **7.3 Leader**

- (a) The Leader will be a Councillor elected to the position of Leader by the Council.
- (b) The Leader's term of office will end on the day when the Council holds its first Annual Meeting after the Leader's normal day of retirement as a Councillor, unless:
  - (i) he/she resigns from the office; or
  - (ii) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
  - (iii) he/she is no longer a Councillor; or
  - (iv) he/she is removed by resolution of Council provided that no such resolution may be moved unless it is delivered to the Chief Executive 14 days before the meeting at which it is to be debated and signed by at least one third of the number of members of the Council (for the time being) and approved by a simple majority of those present; or
  - (v) he/she is otherwise disqualified by law.

#### **7.4 Deputy Leader**

- (a) The Leader will appoint one of the members of the Cabinet to act as Deputy Leader. The Leader must give written notice of such appointment to both the person who he/she is appointing as Deputy Leader and the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both



the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Cabinet at the earliest opportunity.

- (b) The Deputy Leader will hold office until the end of the Leader's term of office unless:
  - (i) he/she resigns from the office; or
  - (ii) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
  - (iii) he/she is no longer a Councillor; or
  - (iv) he/she is no longer a Cabinet Lead; or
  - (v) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and to the Monitoring Officer. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by both the Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of the Deputy Leader and the Leader will report any such removal to the Council and the Cabinet at the earliest opportunity; or
  - (vi) he/she is otherwise disqualified by law.
- (c) Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place. The Leader must give written notice of such appointment to both the person he/she is appointing as Deputy Leader and to the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Executive at the earliest opportunity.
- (d) If for any reason:
  - (i) The Leader is unable to act; or
  - (ii) The office of Leader is vacant.

the Deputy Leader will act in his/her place.
- (e) If for any reason:

- (i) The Leader is unable to act, or the office of Leader is vacant; and
- (ii) 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 Lead to act in his/her place.

## **7.5 Other Cabinet Leads**

- (a) In addition to the Deputy Leader, the Leader will appoint between one and eight further Cabinet Leads to hold such Portfolios as the Leader shall determine. When appointing a Cabinet Lead the Leader must give written notice of the appointment and of the Portfolio to both the person who he/she is appointing as a Cabinet Lead and to the Monitoring Officer. The appointment of the Cabinet Lead will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as a Cabinet Lead and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of a Cabinet Lead and the Leader will report the appointment of a Cabinet Lead and their Portfolio to Council and the Cabinet at the earliest opportunity.
- (b) A Cabinet Lead will hold office until the end of the Leader's term of office unless:
  - (i) He/she resigns from the office; or
  - (ii) He/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
  - (iii) He/she is no longer a Councillor; or
  - (iv) He/she is removed by the Leader who must give written notice of such removal to both the Cabinet Lead and to the Monitoring Officer. The removal of a Cabinet Lead will take effect on receipt of the Leader's written notice by both the Cabinet Lead and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of a Cabinet Lead and the Leader will report any such removal to Council and the Cabinet at the earliest opportunity.

## **7.6 Remits of Cabinet Leads**

- (a) Within the above framework and any statutory requirements, the Leader will determine the detailed remits of Cabinet Leads (including the Deputy Leader) and report such detailed remits (and any changes

thereto) to the Cabinet Leads concerned, the Monitoring Officer, Council and the Cabinet at the earliest opportunity.

**Note** More Details on the roles and responsibilities of the Leader, Deputy Leader and other Cabinet Leads are set out [The Differing Roles of an Elected Councillor](#) which can found in the online Policy Hub.

#### 7.7 **Proceedings of the Cabinet**

- (a) Proceedings of the Cabinet shall take place in accordance with the Cabinet Standing Orders set out in Section H of Part 3 of this Constitution.

#### 7.8 **Responsibility for functions**

- (a) The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by:
  - (i) The Cabinet;
  - (ii) By another Cabinet Lead;
  - (iii) By a committee of the Cabinet; or
  - (iv) By an officer of the Council.
- (b) The Monitoring Officer will maintain a Register of the Delegation of Cabinet Functions and will record any alterations to the allocation of responsibility for the discharge of Cabinet functions in Section B, Part 3 of the Constitution.
- (c) At the earliest opportunity following the election of a Leader, the Leader will review the allocation of responsibilities for the discharge of Cabinet functions recorded in Section B of Part 3 of this Constitution. Any alterations that the Leader wishes to make to the allocation of responsibility for the discharge of Cabinet functions will be dealt with in accordance with Cabinet Standing Order 66.1 in Section H of Part 3 of this Constitution.

## Article 8

### Joint Arrangements

#### Joint arrangements generally

- 8.1**     **The Council may establish joint arrangements** with other local authorities and/or their executives to exercise functions (which are not 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.
- 8.2**     **Appointment of members:** 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.
- 8.3**     **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 Executive 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, an Executive member, but if more than one member is appointed then those appointed must include at least one Executive 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.
- 8.4**     **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.
- 8.5**     **Decision on whether or not to accept the delegation of non-executive functions** from another local authority shall be reserved to a full Council meeting.
- 8.6**     **The decision whether or not to accept the delegation of executive functions** shall be taken by the Leader.
- 8.7**     **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.

## **8.8 Joint Committees**

- (a) Joint arrangements will include the Council's participation in the following joint committees:
  - (i) East Hampshire District Council/Havant Borough Council Joint Human Resources Committee
  - (ii) Five Councils Joint Committee.
  - (iii) Five Councils Joint Overview and Scrutiny Committee.
  - (iv) Parking and Traffic Regulations Outside London Adjudication Joint Committee (PATROLAJC)
  - (v) West of Waterlooville Major Development Area (MDA) Joint Planning Committee

## Article 9

### Officers

#### 9.1 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
  
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officer.
  - (i) **Chief Executive:** Overall responsibility for the leadership and management of the paid executive officers across the organisation. Chief 'Adviser' to the elected councillors. Responsible for communication with all stakeholders in the decision making process. Charged with overseeing the day to day operations of services and maximising value to the organisation including promoting the interests of the area and the council in a national and global context.
  
  - (ii) **Executive Director – Strategy & Governance:** To be the strategic lead for the overall development of the Council to ensure the organisation are fit for the future and that the governance arrangements are robust and effective. Portfolio includes: Finance & Assets, HR & Organisational Development, Communications and Community Engagement, Corporate Strategy and Research and Marketing.
  
  - (iii) **Executive Director – Operations:** To be the strategic lead for the Operations of the Council to deliver quality and effective frontline in-house services ensuring there is a strategic focus on continuous improvement and value for money. To be the strategic lead for the development of services that can be shared in partnership with other public sector bodies, to develop concepts for commercial opportunities and look for wider sharing and best practice across all of the portfolio so that continuous improvement and high levels of performance are part of the Directorate culture. Portfolio includes: Neighbourhood Support, Customer Services, Planning and Housing, Coastal Partnership.
  
  - (iv) **Executive Director – Commercial:** To be the strategic lead for the Council's commercial and client relationships, driving a commercial culture across the organisation. Developing new and existing business ventures and opportunities for new contracts and other methods of delivery. Ensuring that the Council has the skills and capacity to successfully manage programmes and projects across the organisation and providing expertise and capacity to support key corporate

projects effectively. Identifying commercialisation opportunities and closing 'deals' in business, managing on going partnerships/ventures/contracts. Portfolio includes: Corporate Services Procurement; NORSE SE; EHCS Ltd, IT, Corporate Procurement; Effective Working; Leisure; Environmental Services, Economic Development; Building Control; Development Projects and Regeneration.

## 9.2 The statutory officers

- (a) **In compliance with its statutory duties, the Council will arrange for the appointment of officers designated** as the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (sometimes referred to as the "Section 151 Officer").
- (b) **Each has a personal statutory duty** to make a report to full Council or the Executive in the circumstances described below. The duties of the Monitoring Officer and the Chief Finance Officer may be discharged by deputies appointed by them to act in their absence or illness.

## 9.3 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers. and
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

## 9.4 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by Councillors, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function - if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Supporting the Ethical Standards Regime.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Governance and Audit Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by investigating officers, and decisions of any appeals.
- (e) **Conducting investigations.** The Monitoring Officer will carry out their duties in accordance with the code of conduct process for dealing with allegations of breaches of the Code.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Freedom of Information Act.** The Monitoring Officer will determine exemptions under Section 36 of the Freedom of Information Act 2000 relating to information which is prejudicial to the effective conduct of public affairs.
- (j) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## 9.5 Functions of the Chief Finance Officer

- (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 the full Council or to the Cabinet in relation to a Cabinet function - and the Council's external auditor 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 of deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.



- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide 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.

9.6 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

- (a) The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in the opinion of these officers sufficient to allow their duties to be performed.

## **Article 10**

### **Decision Making**

#### **10.1 Responsibility for decision making**

- (a) The Council will issue and keep up-to-date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

#### **10.2 Principles of decision making**

- (a) all decisions of the Council should be made in accordance with the following principles:
  - (i) proportionality (meaning the action must be proportionate to the results to be achieved);
  - (ii) due consultation (including the taking of relevant professional advice);
  - (iii) respect for human rights;
  - (iv) presumption in favour of openness;
  - (v) clarity of aims and desired outcomes;
  - (vi) due consideration to be given to alternative options;
  - (viii) reasons for the decisions to be given provided there is no breach of confidentiality; and
  - (ix) any meeting of the Council, Cabinet or any Committee or Sub-Committee will follow the rules of procedure set put in Part 3 of this Constitution.

#### **10.3 Types of decision**

- (a) **Decisions reserved to full Council**
  - (i) Decisions relating to the functions listed in Article 3.1 will be made by the full Council unless delegated.
- (b) **Key decisions**
  - (i) A “key decision” means a Cabinet decision which is likely:
    - (1) To result in the local authority incurring expenditure which is, or the making of saving which are, significant

having regard to the local authorities budget for the service or function to which the decision relates; or

- (2) To be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.

**(Note** In determining the meaning of 'significant' for the purposes of (a) and (b) above, the decision maker shall comply with Standing Order 45 as set out in Section F of Part 3 of this Constitution and regard shall be had to any guidance for the time being issued by the Secretary of State).

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Standing Orders set out in Part 3 of this Constitution.

#### **10.4 Decision Making by Officers**

- (a) Officers will exercise their delegated authority in accordance with the Scheme of Delegation to Officers, the Register of the Delegation of Cabinet Functions and other provisions of this Constitution.

# Article 11

## Finance, Contracts and Legal Matters

### 11.1 **Financial management**

- (a) The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Section M of Part 3 of this Constitution.

### 11.2 **Contracts**

- (a) Contracts entered into by the Council will comply with the Procurement Rules set out in Section R of Part 3 of this Constitution.

### 11.3 **Legal proceedings**

- (a) The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

### 11.4 **Authentication of documents**

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or some other person duly authorised by the Head of Legal Services, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### 11.5 **Common Seal of the Council**

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. 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. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal should be sealed. The affixing of the Common Seal will be attested by the Head of Legal or the Chief Executive or some other person authorised by him/her.

## **Article 12**

### **Review and Revision of the Constitution**

#### **12.1 Duty to monitor and review the constitution**

- (a) The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Part 1 of this Constitution. In undertaking this task the Monitoring Officer may:
  - (i) observe meetings of different parts of the Councillor and Officer structure;
  - (ii) examine the audit trail relating to sample decisions;
- (iii) Record and analyse issues raised with him/her by Councillors, officers, the public and other relevant stakeholders; and
- (iv) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.
- (c) Before making any recommendations to amend the Constitution the Monitoring Officer may consult the Governance and Audit Committee.

#### **12.2 Changes to the Constitution**

- (a) Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and in accordance with Standing Orders 18.4 and 18.5 of the Council Standing Orders in Section E of Part 3 of this Constitution. The Monitoring Officer is authorised to make such changes as are necessary to reflect alterations in the Council's management structure and changes in the law in so far as such changes are consistent with Council policy subject to the Monitoring Officer submitting a report for noting to the next ordinary meeting of the Governance and Audit Committee. Any other change to the constitution be approved by full Council only after consideration by the Governance and Audit Committee.

## **Article 13**

### **Description of Executive Arrangements**

13.1 The following parts of this Constitution constitute the Executive arrangements:

- (a). Article 7(The Cabinet) and the Cabinet Standing Orders;
- (b). Article 5 (Governance and Audit Committee) and the Scrutiny Standing Orders;
- (c). Article 8 (Joint arrangements) insofar as any joint committee is determining matters delegated to it by the Cabinet;
- (d). Article 10 (Decision making) and the Access to Information Standing Orders and
- (e). Part 3 (Responsibility for Functions insofar as the function is the responsibility of the Cabinet).

# **PART 3**

## **Rules, Procedures & Protocols to Support the Operation of the Council**





**PART 3**

**RESPONSIBILITY  
FOR FUNCTIONS  
AND  
SCHEME OF MANAGEMENT AND  
DELEGATION**



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<a href="#"><u>Section D</u></a>	Scheme of Delegation to Officers



# INTRODUCTION

Sections A to D of Part 3 of the Constitution sets out who is responsible for the various functions of the Council.

The Local Government Act 2000 divides the Council's functions into the following categories:

## 1. Executive Functions

By virtue of section 9D of the Local Government Act 2000, every Council function is an "executive" function (i.e. the function is to be the responsibility of the Executive), unless a statute says differently or the function is identified as a "non-executive" function by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

For the avoidance of doubt the Cabinet forms the Executive for the carrying out of 'executive functions' of the Council.

The Leader of the Council may determine to exercise any of the "executive" functions of the Council personally, or may arrange for the exercise of any of the Council's "executive" functions by:

- (i) the Cabinet; or
- (ii) by another Cabinet Lead; or
- (iii) by a committee of the Cabinet; or
- (iv) by an officer of the Council

## 2. Council (Non-Executive) Functions

"Non-executive" functions are the responsibility of the Council, which may decide to delegate their discharge to a Council Committee or Joint Committee. They can also be delegated to a Council Sub-Committee or a council officer.

There are some non-executive functions that can only be the responsibility of the full Council and cannot be delegated to another body. These are set out in Article 3.1 of Part 2 of this Constitution.

## 3. Local Choice Functions

Some Council functions are "local choice functions". This means that the Council can decide whether the function is to be the responsibility of the Cabinet (an "executive function") or the responsibility of the Council (a "non-executive" function). Section A of Part 3 of this Constitution sets out these "local choice functions", designates them as "executive" or "non-executive", and shows who is authorised to discharge them.

## Section A Responsibility for Functions

### Responsibility for Local Choice Functions

Local Choice Functions		Decision Maker	Further Delegation
1	Any function under a Local Act not specifically excepted.	Council	
2	The determination of any appeal against any decision made by or on behalf of the Authority.	Development Management 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	Joint Human Resources Committee	Human Resources Panel
4	Any function relating to contaminated land.	Cabinet	Head of Neighbourhood Support
5	The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Head of Neighbourhood Support
6	Functions relating to statutory nuisances pursuant to sections 79 to 81 of the Environmental Protection Act 1990	Cabinet	Head of Neighbourhood Support
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	Head of Neighbourhood Support

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 style="padding-left: 40px;">(i) The Authority</p> <p style="padding-left: 40px;">(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>	Council	
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>(c) to any body other than</p> <p style="padding-left: 40px;">(i) The Authority</p> <p style="padding-left: 40px;">(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	





# **Section B**

## **Executive Functions**



### **Part 3 -Section B: Responsibility For Executive Functions**

The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by

- i) the Cabinet; or
  - (ii) a Cabinet Lead; or
  - (iii) by a committee of the Cabinet; or
  - (iv) by an officer of the Council
- (A) Officers may discharge executive functions insofar as any responsibilities delegated to them in the Scheme of Delegation to Officers are executive functions.
- (B) 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.
- (C) Where joint arrangements with one or more other local authorities in respect of the discharge of an executive function cease or have ceased to have effect by virtue of the Council or another local authority operating or beginning to operate executive arrangements, the Leader shall have power to make new joint arrangements to discharge those functions jointly with other local authorities and/or the executives of other local authorities, as appropriate.

#### **NOTES**

- (i) In exercising delegated powers Officers must have regard to the principles set out in the Introduction to the Scheme of Delegation to Officers.
- (ii) Where the Leader delegates the discharge of executive functions to the Cabinet, the Cabinet may arrange for the discharge of any of those functions by a committee of the Cabinet or an officer of the authority.
- (iii) Any arrangements made by the Leader for the discharge of executive functions by the Cabinet, a committee of the Cabinet, or a Cabinet Lead do not prevent the Leader from exercising those functions.
- (iv) Any arrangements made by the Leader or the Cabinet for the discharge of executive functions by an officer do not prevent the Leader or, as the case may be, the Cabinet from exercising those functions.

The Leader has delegated some of his executive powers to Individual Cabinet Leads in the following terms:

## **Scheme of Delegation to Cabinet Leads**

### The Leader

To act in the place of any Cabinet Lead having delegated authority under this scheme.

### Each Cabinet Lead – General Provisions

1. 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, subject to:
  - (a) in relation to individual matters where Cabinet has specifically authorised delegation to a Cabinet Lead up to a limit per project of £500,000; or
  - (b) In any other case up to £200,000.
2. Determination of fees and charges for services within the budget and policy framework.
3. To authorise public consultation on strategies and policies within the budget and policy framework.
4. To comment on behalf of the Council on consultation papers issued by Government or any other public body.
5. To approve the response to be taken to service action plans, external inspection reports, monitoring reports, scrutiny reports and post implantation reviews.
6. 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.
7. Power to approve the negotiation of a contract to which the Council is to be a party where the value is over £100,000, provided the cost is within budget provision (assuming officers are satisfied there are good reasons to do so and explain these reasons in their report to the relevant Cabinet Lead).
8. Power to approve a tender from a third party to undertake works for or provide goods or services to the Council where the value of the tender is over £50,000 and it is not the lowest received subject to the Cabinet Lead concerned receiving an explanation from the relevant Executive Director to justify this.

9. Power to approve significant (over £25,000 in value) variations to contracts or significant variances after agreement of the final account subject to the Cabinet Lead concerned receiving a report from the relevant Executive Director to justify this.

### **Specific Delegations**

#### The Leader

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 for a sum not exceeding £400,000.
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 license 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.
3. Power to authorise minor works on Council land or buildings, value not exceeding £200,000.

#### Cabinet Lead for Economy, Planning and Development and Prosperity Havant

1. To authorise comments on the Development Plan or Local Development Framework of other local authorities.
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.
3. To agree Historic Building Grants up to a limit of £25,000 per project.
4. To approve the Planning Annual Report

#### Cabinet Lead for Operations, Environmental Services and NORSE

1. To authorise public consultation on proposed traffic regulation and parking orders.
2. To authorise the making of traffic regulation and parking orders except where:
  - (a) a ward Councillor registers a request that the matter be dealt with by Cabinet; or
  - (b) Ten or more representations from separate addresses are received (and not withdrawn) which are in objection to the officer recommendation.

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.

#### Cabinet Lead for Governance and Organisational Development

1. Power to determine applications for hardship rate relief referred to the Cabinet Lead by the Section 151 Officer due to the special circumstances or the scale of potential job losses.
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.

#### **Terms**

All decisions taken by Cabinet Leads will be notified, by email, to all Councillors as soon as possible after the decision has been taken. The record of the decisions shall be recorded and publicised in accordance with Standing Order 53 as set out in Section F of Part 3 of this Constitution.

The procedure for "Call In" is set out in Standing Order 81 of the Scrutiny Standing Orders as set out in Section I of Part 3 of this Constitution.

#### **Cabinet Lead Delegated Decisions**

##### Example Decisions

Traffic Regulation Order:

- Initiation of Process – Advertising schemes and proposals for public comment; and
- Approval of such orders where no comments have been received.

Property:

- Sale/disposal and acquisition of land up to agreed values; and
- Renegotiation of rent and lease concerning Council land and property.

General Examples:

- Entering into Partnerships such as the recent Hampshire Broadband Partnership;
- Commenting on Government Consultations;
- Commenting on other Local Authorities Local plans and Core Strategies (when invited to do)
- Minor amendments to service related matters such as Car Parking prices.

# **Section C**

## **Council (Non-Executive) Functions**





## **SECTION C: RESPONSIBILITY FOR NON - EXECUTIVE FUNCTIONS**

Details on the discharge non-executive functions are set out in [Article 5](#) of Part 2 of this Constitution



# SECTION D

## Scheme of Delegation to Officers



## Section D

# Scheme of Management And Delegation (“The Scheme”)

### Part A GENERAL SCHEME OF DELEGATIONS

#### 1. Designated Officers cv

The Scheme’s Designated Officers are:

[Chief Executive](#)  
[Monitoring Officer](#)  
[Chief Finance Officer](#)

[Executive Directors](#)  
Executive Director, Commercial  
Executive Director, Operations  
Executive Director, Strategy & Governance

[Head of Communication and Community Engagement](#)  
• [Community Development Manager](#)

[Head of Coastal Partnership](#)

[Head of Customer Services](#)

[Head of Development](#)  
• [Business Economy and Town Services Manager](#)

[Head of Environmental Services](#)

[Head of Finance & Assets](#)

[Head of Housing](#)

[Head of Legal](#)

[Head of Neighbourhood Support](#)

[Head of Organisational Development](#)  
• [Democratic Services Team Leader](#)

[Head of Planning](#)

[Head of Programmes, Redesign & Quality](#)  
• [Effective Working Manager](#)  
• [Strategic Procurement Manager](#)

[Head of Research and Marketing](#)

## 2. General powers of delegation and discharge of functions

### 2.1 Each Designated Officer is authorised to:

- (i) exercise all statutory powers and duties of the Council as set out below;
- (ii) take any action, make any decision, determine, or do anything else which he or she considers necessary for the proper performance of, and to facilitate the carrying out of, the duties, powers, responsibilities, functions and other matters which fall from time to time to be discharged by, or which otherwise involve or concern the Council, including the giving, making, issuing or service of any notice, order or other document which the Council is authorised or required so to do by or under any enactment relating to the functions within the area of responsibility of the Designated Officer from time to time including in the case of an emergency, the spending of money;
- (iii) carry out, where appropriate, the specific functions and/or other matters as respectively referred to hereafter; and
- (iv) delegate these powers to another officer.

2.2 It is recognised that it is not possible for the Designated Officers to perform personally all the diverse and various matters delegated to them by this scheme. Therefore such Designated Officers may make internal arrangements under which other officers will be authorised to carry out the functions delegated to the Designated Officers in this Scheme. Such arrangements may be made formally in writing but shall be equally valid if during an emergency it is made orally and informally and is formalised in writing following the emergency.

2.3 Where a power delegated to an officer is expressed to be exercisable in consultation with the Chairman of a Committee or relevant Cabinet Lead, in the absence of that Chairman the consultation shall take place with the Vice-Chairman or, in the absence of the relevant Cabinet Lead, the Leader or in his/her absence the Deputy Leader.

2.4 Any reference in this Constitution to any statute or regulation or similar shall be deemed to include a reference to any statutory extension, amendment, modification, replacement or re-enactment of it for the time being in force.

2.5 Where a function, power, duty or responsibility is delegated to a Designated Officer under the terms of this scheme, then the delegation of such function, power, duty or responsibility applies and is effective in relation to the officer or officers listed whether they are employed by this Council or whether they are employed by another Authority under an agreement made under Section 113 of the Local Government Act 1972

## .3. General management responsibilities

- 3.1 Each Designated Officer will:
- (i) act as necessary for the purpose of securing the proper, effective and efficient management and performance of the Service;
  - (ii) subject to compliance with Standing Orders relating to contracts, be authorised to appoint consultants for the purpose of providing specialised services; and
  - (iii) ensure that any decision of an officer having substantive effect shall be recorded in such a manner so as to provide clarity on what action has been authorised.

#### 4. "Proper Officer"

- 4.1 Some of the functions of the Council require the appointment of an officer referred to as a "Proper Officer". The "proper officers" for various statutory functions are listed below.
- 4.2 Each Designated Officer shall be a "Proper Officer" for any purpose required by a statute or statutory instrument which is not specified in this scheme of delegation to staff.
- 4.3 Where legally permissible the Chief Executive or Executive Director is authorised to act as "proper officer" for any function:
- (i) in the absence or inability to act of the "proper officer" specified by the council; or
  - (ii) for which a "proper officer" has not been identified within this scheme.

The following are the functions of the Council for which the named officer has been appointed "proper officer":

### APPOINTMENT OF PROPER AND DESIGNATED OFFICERS

1 Section of Act	2 Description of the responsibility involving the appointment of an officer of the Council	3 The officer of the Council appointed the proper officer for the duty or function referred to
<b>LOCAL GOVERNMENT ACT, 1972</b>		
13 (3)	The Officer to act as Parish Trustee in a parish which does not have a Parish Council	Chief Executive Executive Director

83(1)	The Officer before whom a person elected to the Office of Chair, Vice-Chair or Councillor of the Borough shall make a declaration of acceptance of office in a form prescribed by the Local Elections (Declaration of Acceptance of Office) Order 2012 and to whom such declaration shall be delivered	Chief Executive or Head of Legal or Monitoring Officer
84	The officer to whom a person elected to any office under the Act may at any time give written notice of his resignation from that office.	Chief Executive
89(1)	The Officer to receive notice in writing given by two local government electors for the Borough of a casual vacancy occurring in the office of Councillor	Head of Legal
100B,C,D & F	The officer responsible for providing access to agendas, minutes, reports and background documents in respect of meetings of the Authority	Monitoring Officer
115(2)	The Officer to whom all money due from every officer employed by the Council shall be paid.	Chief Finance Officer
146	The Officer to make any statutory declaration in connection with the transfer of securities	Chief Finance Officer
151	The Officer who shall be responsible for the proper administration of the	Chief Finance Officer



	Council's financial affairs.	
191(2)	The Officer to appoint a person to assist in examining, ascertaining and marking out the reputed boundaries of the Borough for the purposes of the Ordnance Survey Act 1841.	Chief Finance Officer
210(6) & (7)	The Officer in whom shall vest the powers with respect to Charities carried out by officers of the "old" local authority where there is no corresponding officer in the new authority	Head of Legal
225(1)	The Officer to receive and retain a document of any description deposited pursuant to the Standing Orders of either House of Parliament or to any enactment or instrument.	Head of Legal
229(5)	The Officer to certify a photographic copy of a document in the custody of or under the control of the Council or of a document which has been destroyed while in the custody of the Council, or of any part of any such document	Head of Legal
234(1)	The Officer to sign any notice, order or other document made or issued by the Council	Head if Legal
236(1) & (9)	The Officer to send to the Council a copy of every byelaw made by the Council and confirmed	Head of Legal

238	The Officer to certify a printed copy of a byelaw made by the Council	Head of Legal
248(2)	The Officer to keep the roll of freedom of the town.	Head of Legal
Sched 12 para 4(2)(b)	The Officer to sign the summons to attend meetings of the Council and specifying the business proposed to be transacted thereat	Monitoring Officer
Sched 12 para 4(3)	The Officer to receive the notice in writing from a member of the Council giving notice that such member desires summonses to attend meetings of the Council to be sent to him at some address specified in the notice other than his place of residence.	Monitoring Officer
Sched 12 Para 4.(1B)(b)(ii)	The Officer to receive the notice from a member of the Council giving consent for the summonses to be transmitted in an electronic form to a particular electronic address	Monitoring Officer
Sched 14 para 25(7)	The Officer to certify in writing a true copy of the resolution of the Council applying or disapplying various provisions of the Public Health Acts 1875 to 1925	Head of Legal
<b>LOCAL GOVERNMENT ACT, 1974</b>		
30(5)	The Officer to give public notice of the availability of	Head of Legal

reports of the Local  
Commissioner for  
Administration

Communicable Disease  
Control

Consultant in  
Communicable  
Disease  
Control, Public Health  
England (or  
Acting Consultant),  
for the  
time being, or his/her  
duly  
appointed deputy.

Various Other Health  
Matters

(a) Under Section 47 of  
the National Health Act,  
1948.

(b) Medical Adviser on  
environmental health  
matters.

Consultant in  
Communicable  
Disease  
Control and Director  
of  
Health Strategy and  
Public Health, both of  
Hampshire CCG (or  
their  
nominated deputies,  
the  
Senior Clinical  
Medical  
Officers)

(c) Under Section 37 of  
the Public Health Act  
1961

The Head of  
Neighbourhood  
Support and  
Environmental  
Health,  
Principal EHO's and  
EHO's

**HEALTH & SAFETY AT  
WORK ACT ETC 1974**

39

Power to institute  
proceedings for  
breaches of provisions  
under the Act.

Environmental Health  
Officers designated  
by the  
Council as Health &  
Safety Officers

**LOCAL GOVERNMENT  
(MISCELLANEOUS  
PROVISIONS) ACT 1976**

41

The Officer for signing

Head of Legal

certificates as evidence of resolutions and minutes of proceedings, etc

**REPRESENTATION OF THE PEOPLE ACT 1983**

8	The Officer to act as Electoral Registration Officer.	Monitoring Officer
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24, 27 and 28	The Officer to act as deputy acting returning officer for Parliamentary and EU elections	Monitoring Officer
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35	The Officer to act as Returning Officer for elections of Borough Councillors.	Monitoring Officer
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**BUILDING ACT 1984**

78	The Officer to deal with dangerous buildings or structures in emergencies	Head of Development
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**LOCAL GOVERNMENT AND HOUSING ACT 1989**

4	The Officer to act as head of the paid service	Chief Executive
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5	The Officer to act as the monitoring officer	Senior Lawyer (Contentious)
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**LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990**

	The Officer to accept political group notices.	Chief Executive
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**THE LOCAL ELECTION (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006**

The Officer of the Borough Council to act under the Rules for the purposes of elections, including the receipt of all documents and returns.

Returning Officer

**LOCALISM ACT 2011**

30 and 31

The Officer to receive notices of members' disclosable pecuniary interests.

Monitoring Officer

33

The proper officer to receive written requests for dispensations

Monitoring Officer (with the ability to refer to the Governance & Audit Committee)

**GENERAL**

Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Town Clerk of a Borough which, by virtue of any provisions of the said Act was to be construed as reference to the Proper Officer of the Council.

Chief Executive or Head of Legal

Any reference in the Local Government Act 1972 to the Proper Officer of the Council except where one has been designated above

Chief Executive or Head of Legal

Any reference in any enactment passed after the 1971/72 session of Parliament or to be passed to the Proper

Chief Executive or Head of Legal

Officer of the Council  
unless or until a specific  
appointment of another  
Officer has been made by  
the Council.

**5. General limitations on exercise of powers**

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

- (i) will comply with relevant Standing Orders including Financial and Contract Standing Orders. In the event of any inconsistency or conflict between Financial Regulations and/or Contract Standing Orders 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 and/or the Monitoring Officer;
- (ii) will not depart from any approved policies, scheme, or, any direction of the Council or Cabinet and/or appropriate Committee;
- (iii) will consult the appropriate professional or technical officer of the Council in any case involving professional or technical consideration not within the capacity of the officer concerned; and
- (iv) will take account of any Council Strategy and Annual Budget and Policy Framework approved by Council in relation to the management functions for which he or she is authorised.

5.2 No Designated Officer will:

- (a) raise money by way of loan, rate or tax;
- (b) give approval to matters in respect of which approval is required by statute to be given by the Council;
- (c) make byelaws;
- (d) make orders relating to the compulsory purchase of land;
- (e) 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;
- (f) make Orders or Declarations relating to clearance areas, redevelopment areas or improvement areas;

- (g) declare or amend the major objectives or the major policies of the Council;
- (h) make, alter or revoke standing orders; or
- (i) make decisions concerning electoral divisions, wards or polling districts.

Note: For the avoidance of doubt, these provisions will not prevent any Designated Officer giving effect to a decision of the Council, Cabinet, Committee on any of the above matters.

Any delegation under the Scheme will be without prejudice to the overriding right of the Council or Cabinet and any duly authorised Committee to withdraw or amend the powers or to decide any matter and, in particular, any Designated Officer may, in any case, instead of exercising his or her powers under the Scheme, refer any matter to the Council, the Cabinet or Committee for decision.

The Scheme will not prevent the Council or Cabinet and/or any duly authorised Committee from exercising their powers in parallel with any action, contemplated or otherwise, by any Designated Officer under the Scheme.

The Scheme will also be subject to the right of the Council or Cabinet and/or any duly authorised Committee to rescind the Scheme or any part or parts of the Scheme.

## **6 Power of the Chief Executive and Monitoring Officer to enlarge, modify, vary, or alter the Scheme of Delegation**

- 6.1 The Scheme of Delegation for Officers may be enlarged, modified, varied or otherwise altered from time to time by the Chief Executive and Monitoring Officer for the purpose of securing the carrying out and the proper performance of the Council's responsibilities and business.

**Part B**  
**SPECIFIC STAFF DELEGATIONS**

**A**     **Chief Executive**

**1**     **Areas of responsibility**

- (i)     to act as the Council's Head of Paid Service under s4 of the Local Government and Housing Act 1989;
- (ii)    Overall co-ordination and discharge of the Council's functions;
- (iii)   Direction, implementation and delivery of Council policies and programmes and determination of effectiveness against objectives stated in the Council Strategy;
- (iv)    Direction of the development and submission for Council approval of Council Strategy, Annual Reports and Service Plans;
- (v)     Direction of the development and submission for Cabinet approval of Risk Management Policy. Responsible for the effective implementation of the Council's Risk Management Policy;
- (vi)    Ensuring that Council budgets are complied with in respect of corporate policies and priorities;
- (vii)   Agree and prioritise personal and service targets with Executive Directors to ensure that these reflect the Council's Strategy as well as changing legislative and service demands;
- (viii)  To be responsible for service performance and to ensure that business plans are effectively implemented;
- (ix)    Ensure that resources are allocated and used effectively within the Service and that systems and standards are in place for ensuring their effective deployment;
- (x)     Recruit, develop and motivate the Executive Directors to ensure that they are equipped with skills and competencies needed to obtain the best from their services and produce individual high performance;
- (xi)    Monitoring, evaluation and overall effectiveness of the use and management of the Council's resources, ensuring recommendations for improvement are progressed;
- (xii)   Establishing good working relationships with Councillors to ensure the Council is managed in accordance with their expectations;



- (xiii) Developing the Council's management practices and arrangements in line with the following objectives and such further objectives that may be determined by the Council from time to time:
  - (a) Understand the Council's customers;
  - (b) Respond to the electorate;
  - (c) Set and pursue consistent, achievable objectives;
  - (d) Assign clear management responsibilities;
  - (e) Train and motivate people;
  - (f) Communicate effectively;
  - (g) Monitor results; and
  - (h) Respond quickly to change
- (xiv) Achieving the Council's policy objectives on matters of general policy, as may be determined by the Council from time to time, including evaluation and assessment of Council policy and the provision of advice as the Council's Principal Adviser on matters of general policy;
- (xv) Organisation, appointment and proper management of the Council's staff;
- (xvi) The effective organisation of emergency planning and co-ordination; and
- (xvii) To set fees and charges in accordance with powers delegated by Cabinet from time to time.

## **2 Management functions of Chief Executive**

- 2.1 To be responsible for the management of the Management Team and the Council as a corporate body.

## **3 Delegated Authority**

- 3.1 The Chief Executive is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of the Council to include the power:
  - (i) to apply the provisions of the early retirement/redundancy schemes in appropriate cases in accordance with the Council's approved policy;

- (ii) to suspend staff in consultation with the Head of Organisational Development;
- (iii) to dismiss staff in consultation with the Head of Organisational Development;
- (iv) to seal any document on behalf of the Council;
- (v) to exercise the powers and the duties of the Council under all relevant statutes for the time being in force relating to civil defence and civil emergency, and to act as necessary to save life and property in an emergency situation, until such time as a meeting of the Council and/or Cabinet can be convened;
- (vi) to take any action required as a matter of urgency for the proper and effective performance and the execution of the Council's functions;
- (vii) that the Chief Executive be authorised to amend the Disciplinary, Grievance, Appeals and Probationary Procedures and the Capability Procedure and Termination of Fixed Term Contract Procedures and other such employment policies and procedures as necessary in the future to reflect changes in employment law and/or best practice in consultation with the Head of Organisational Development, Joint Human Resources Committee, Leader of the Council and relevant Cabinet Lead;
- (viii) (subject to any statutory restrictions and /or any specific personal qualification requirements that may exist.) to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the Council's functions and to exercise (or nominate another to exercise) all powers, duties and functions of the Council (insofar as they are carried out by Officers of the Council); and
- (ix) in order to effect any ad hoc changes which may become necessary during the course of any year, to make changes to the membership of Committees and Panels on instruction from the relevant Political Groups in accordance with the provisions of the Council's Standing Orders.

## **B**      **Monitoring Officer**

### 1      Areas of responsibility

#### 1.1      General

- (i)      Carry out the functions and duties of Monitoring Officer (including attendance at all meetings of full Council and investigation of allegations in relation to breaches of the Code of Conduct); and
- (ii)      The Monitoring Officer is authorised to:
  - (a)      make such changes to the Constitution as are necessary to reflect alterations in the Council's management structure and changes in the law insofar as such changes are consistent with Council policy. Any other change to the Constitution will only be approved by the full Council after consideration by the Governance & Audit Committee; and.
  - (b)      enlarge modify, vary or alter the scheme of delegation (Section D of Part 3 of this Constitution) for the purpose of securing the carrying out and the proper performance of the Council's responsibilities and business
- (iii)      Returning Officer under Representation of the Peoples Act 1983 for Havant Borough Council

#### 1.2      Democratic Services

- (i)      The preparation and maintenance of the Register of Members' Interests on behalf of the Monitoring Officer;
- (ii)      The provision of services for councillors' meetings, namely those services concerned or connected with the preparation and despatch of agenda, and the taking of minutes as are required to enable the proper functioning and activities of the Council, the Cabinet, Scrutiny Board, other Committees, Sub-Committees, Working Parties and such other councillor and officer bodies as may be agreed from time to time, including the appointment and administration of the Independent Panel relating to Members' Allowances;

#### 1.3      Electoral Services

- (i)      The preparation and maintenance of the Register of Electors for the Borough including proxy voters lists and service voters lists;
- (ii)      The organisation and conduct of all Parliamentary, European Parliamentary, County, Borough elections, by-elections and referendums for the Constituencies, Divisions, Wards within the Borough; and

- (iii) The review of electoral arrangements and Borough boundaries.

## **C Chief Finance Officer**

### 1 Areas of responsibility

#### 1.2 General

- (i) To act as the Council's Responsible Finance Officer under s151 of the Local Government Act 1972, managing the totality of the Council's financial affairs in all of its dealings;
- (ii) To act in a fiduciary capacity for local citizens of the borough of Havant.

#### 1.3 Financial Services

1.3.1 To be able to fulfil the statutory and public interest duties and to ensure that financial arrangements remain robust and effective, the Chief Finance Officer must make a positive and effective contribution to an authority in six key areas.

1.3.2 Each of these six roles is critical to the achievement of the chief finance officer's statutory responsibilities and this needs to be recognised in an authority's organisational structure and arrangements. The Chief Finance Officer should alert the authority to any areas in which arrangements adopted by the organisation may militate against the discharge of his or her statutory responsibilities.

#### 1.4 Key Finance Activities

1.4.1 Maintaining strong financial management underpinned by effective financial controls by:

- (i) advising on effective systems of internal management and financial control;
- (ii) ensuring that financial management arrangements are sound and effective;
- (iii) ensuring a prudential financial framework is in place;
- (iv) ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well documented internal financial controls;
- (v) securing effective arrangements for prudential borrowing, treasury management, pensions and trust funds;
- (vi) ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny;

- (vii) advising on anti-fraud and anti-corruption strategies and measures;
  - (viii) securing effective systems of financial administration; and
  - (ix) ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared.
- 1.4.2 Contributing to corporate management and leadership;
- 1.4.3 Supporting and advising democratically elected representatives, specifically:
- (i) Ensuring that all 'branches' of the authority (including the full council, executive and scrutiny functions, administration and opposition groups and individual councillors) receive advice and information ;
- 1.4.4 Supporting and advising officers in their operational roles ensuring that:
- (i) there is an effective approach to financial management;
  - (ii) financial strategies serve policy and service objectives;
  - (iii) the authority's resources are well managed;
  - (iv) budgets are properly managed; and
  - (v) ensuring that financial advice and information is provided.
- 1.4.5 Leading and managing an effective and responsive financial service:
- (i) securing high standards of performance and service to the public;
  - (ii) demonstrating accountability to members of the public and the community by providing robust financial and performance information;
  - (iii) establishing a good, professional working relationship with external auditors, inspectors and other statutory agencies;
  - (iv) ensuring that the services provided by the finance function are in line with the expectations and needs of its internal stakeholders;
  - (v) ensuring there are high standards of performance throughout the finance function; and
  - (vi) leading and managing the finance function.
- 1.4.6 Be authorised 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.

1.5 Internal Audit Services

1.5.1 The provision of internal audit services, including reviewing, appraising and reporting on:

- (i) The soundness, adequacy and application of internal controls; and
- (ii) The extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from:
  - (a) fraud and other offences;
  - (b) waste, extravagance and inefficient administration, poor value for money or other causes; and
  - (c) the suitability and reliability of financial and other management data held by the Council.

## **D Executive Directors**

### **1 Areas of responsibility**

#### **1.1 General**

- (i) To deliver the Council Strategy and positively contribute to the review and determination of the direction of the Council while supporting, upholding and promoting the Council's Values;
- (ii) As a member of the Management Team, formulate corporate strategy (including the Council Strategy) and policy, review performance and participate in decision making processes;
- (iii) Recruit, develop and motivate Service Heads to ensure that they are equipped with skills and competencies needed to obtain the best from their services and produce individual high performance;
- (iv) Establish, maintain and nurture relationships and networks both within and outside of the Council to develop a partnership approach;
- (v) Work closely with Councillors to interpret and achieve political aspirations within a proper framework;
- (vi) Lead policy and project initiatives of major corporate and strategic significance, to provide the drive, authority and cross service vision needed for effective planning and delivery;
- (vii) To set fees and charges in accordance with powers delegated by Cabinet from time to time;
- (viii) To suspend staff in consultation with the Head of Organisational Development; and
- (ix) To dismiss staff in consultation with the Head of Organisational Development.

#### **1.2 Investment Criteria**

- 1.2.1 The power to approve the acquisition of properties meeting the Council's investment criteria be delegated to any Executive Director, in consultation with the Leader and the section 151 Officer

#### **1.3 Delegations**

- 1.3.1 In the absence of any other Designated Officer, Executive Directors are delegated all powers of the Head of Service.



## **E Heads of Service**

### **1 Areas of responsibility**

#### **1.1 General**

- (i) To deliver the Council Strategy and positively contribute to the review and determination of the direction of the Council while supporting, upholding and promoting the Council's Values;
- (ii) As a member of the Management Team, formulate corporate strategy (including the Council Strategy) and policy, review performance and participate in decision making processes;
- (iii) Ensure that plans and budgets are prepared and within the context of the business planning and budgeting processes;
- (iv) Agree and prioritise personal and service targets to ensure that these reflect the Council's strategy and views as well as changing legislative and service demands;
- (v) Monitor performance of services, to ensure that plans are effectively implemented and any corrective action is taken in time to achieve quality and value for money.
- (vi) Ensure that resources are allocated and used effectively within Services and that systems and standards are in place for ensuring their effective deployment;
- (vii) Recruit, develop and motivate staff to ensure that they are equipped with skills and competencies needed to obtain the best from their services and produce individual high performance;
- (viii) Establish, maintain and nurture relationships and networks both within and outside of the Council to develop a partnership approach;
- (ix) Work closely with Councillors to interpret and achieve political aspirations within a proper framework;
- (x) Lead policy and project initiatives of major corporate and strategic significance, to provide the drive, authority and cross service vision needed for effective planning and delivery;
- (xi) To set fees and charges in accordance with powers delegated by Cabinet from time to time;
- (xii) To suspend staff in consultation with the Head of Organisational Development; and

- (xiii) To dismiss staff in consultation with the Head of Organisational Development.

## 1.2 Planning Applications

- 1.2.1 The making of applications for deemed planning permission and listed building consent in relation to Council-owned or other land, including:
  - (i) for permission for development under regulations 3 and 4 of the Town and Country Planning General Regulations 1992 in respect of land owned by the Council; and
  - (ii) for permission for development or listed building consent in respect of land not owned by the Council in consultation with the relevant Cabinet Lead and local ward councillor(s).

## **2 Head of Coastal Partnership**

2.1 The Head of Coastal Partnership is delegated the power to discharge all of Havant Borough Council's functions relating to coastal defence to include:

- (i) The management and maintenance of coastal defences within and affecting the Borough of Havant.
- (ii) The appointment and management consultants and contractors for the purpose of undertaking any of the functions and responsibilities of the Havant BC element of the Coastal Defence Partnership Team.
- (iii) The making of applications for deemed planning permission in relation to Havant Borough Council owned or other land.

### **3 Head of Communications and Community Development**

#### **3.1 Areas of Responsibility**

3.1.1 The Head of Communications and Community Development is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:

(i) Community Initiatives

(a) To provide financial, technical and professional advice to local and regional community groups.

(1) Community Centres

i The provision and management of Community Centres in accordance with all relevant requirements (including appropriate decisions of the Council) and including:

a ensure the provision and management of the Council's Community Centres; and

b the authority to instigate partnership agreements with the relevant bodies in relation to the Council's Community Centres and their effective provision of services in the Community.

(2) Youth Health and Community Development Work

i The provision and management of Youth Health and Community Development work in accordance with all statutory and other relevant requirements (including appropriate decisions of the Council) and including:

a the Council's adviser to relevant Partnerships including the authority to determine agreements for the provision of appropriate services in the Borough; and

b the provision of a Community Development Plan for the Borough.

(3) Council Grants

i The provision and management of Council Grants in accordance with relevant Council policies and

requirements and where appropriate, in consultation with the Chief Finance Officer, (including appropriate decisions of the Council) and including:

- a the payment of annual grants; and
  - b the authority to instigate partnership agreements with the relevant bodies in relation to the payment of annual grants.
- (4) Strategic policy and programme liaison with lead organisations and partnership bodies involved in community development, education, health and social welfare.
  - (5) Authority as the Council's adviser in matters to the Leisure Trust; to agree all partnership agreements and other matters relating to the provision of services through the Trust in consultation with the relevant Cabinet Lead.
  - (6) To sign service level agreements and other agreements with voluntary sector organisations and other statutory agencies on behalf of the Council, as appropriate.
  - (7) To suspend payment of grant awards to partnership funding organisations in appropriate circumstances prior to a monitoring report being presented to Cabinet.

(ii) Cultural Services

(a) Cultural

- (1) The management of leisure and cultural services and any supporting strategies in accordance with relevant Council policies and requirements (including appropriate decisions of the Council) and where appropriate, in consultation with relevant Partnerships.
- (2) To promote the development of the arts in the area, either through direct promotion or in partnership with other agencies.

(b) Leisure Facilities

- (1) Authority to ensure provision and management of Leisure facilities in the Borough to meet the needs of relevant strategies in accordance with all relevant requirements (including appropriate decisions of the Council) and including:

- i the provision of a Facilities Strategy for the Borough relating to the longer term development of leisure assets; and
- ii authority as the Council's adviser in matters relating to Horizon Leisure Trust; to agree all partnership agreements and other matters relating to the provision of services through the Trust in consultation with the Chairman of Horizon Leisure Trust Liaison Panel and the relevant Cabinet Lead.
- iii To create, maintain and promote facilities and services which assist in the provision of physical and recreation opportunities for local people and visitors. This provision to be provided directly or in partnership with other agencies as appropriate. and

(iii) Communications

- (a) The provision of public relations and communications services including:
  - (1) liaison with the media;
  - (2) external promotion of Council activities;
  - (3) co-ordination of internal communications;
  - (4) production of publications;
  - (5) the provision and development of Community Focus Groups and other appropriate mechanisms for the purpose of consultation;
  - (6) design services to produce leaflets, documents, news letters and reports, also exhibition and visual aids work; and
  - (7) Enhance democracy and community development in the area.

## 4 Head of Customer Services

### 4.1 Areas of responsibility

4.1.1 The Head of Customer Services is delegated power to discharge all of the Council's functions relating to the administration in regard to all matters concerning Customer Services. Corporate Support, Electoral Services, Governance and Information Management and reliefs, rebates, refunds and enforcement related to Council Tax, Non-Domestic Rating, Housing Benefit, Council Tax Benefit/Support and other debts such powers to include:

- (i) Revenues and Benefits
  - (a) To increase the levels of summons and liability order costs relating to the recovery of sums due from charge payers or taxpayers, in line with increased costs, from time to time;
  - (b) To determine entitlement to Council Tax discount in respect of disregarded people and to determine exemption from empty property Council Tax charges in accordance with the regulations and Council Policy;
  - (c) To represent and appear on behalf of the Council at any legal proceedings in relation to the administration and recovery of, non-domestic rates and Council tax (including Valuation Tribunals), and such authority will be deemed to include any officer of the Revenues and Benefits Service Team appointed for that purpose under section 223 of the Local Government Act 1972;
  - (d) To write off debts to a maximum of £5,000 per debt without recourse to the Cabinet and/or Council;
  - (e) To grant hardship relief from non domestic rates in accordance with the agreed guidelines. Where considered appropriate due to special circumstances, scale of potential job losses or significant budget implications, consult with the Chief Finance Officer and the relevant portfolio holder;
  - (f) Administer applications for discretionary rate relief, top-up rate relief and rural rate relief in accordance with the Councils agreed guidelines;
  - (g) To authorise the despatch of Completion Notices relating to new and altered property for the purposes of non-domestic rates and Council tax administration;
  - (h) To agree discretionary granting of void relief for non-domestic rates on partly occupied property under the provisions of the Local Government Finance Act 1988;
  - (i) To agree to remit or reduce Council tax or non-domestic rates for sole traders in appropriate cases under the provisions of the Council's Extreme Hardship Scheme;

- (j) To appoint contract bailiffs to act for the Council in the collection of non-domestic rates and Council tax where a liability order has been granted by the Magistrates;
  - (k) To determine claims under the Housing Benefit Scheme and Council Tax Benefit Scheme (including backdated claims) in accordance with the provisions of the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992; and pay benefit to eligible claimants;
  - (l) The compilation and maintenance of the Council Tax Register;
  - (m) The levying, billing, collection and recovery of Council tax and non-domestic rates and connected administrative functions;
  - (n) To investigate benefit/reduction claims where fraud or abuse is suspected;
  - (o) To determine the recoverability of Housing Benefit/Council Tax Benefit/Council Tax Reduction overpayments in accordance with the Housing Benefit and Council Tax Benefit Regulations and the Council's agreed Council Tax Support schemes and make decisions on whether to seek recovery of overpayments;
  - (p) To decide claims and make payments under the Discretionary Housing Payments scheme in accordance with the Discretionary Financial Assistance Regulations 2001 and agreed Council guidelines and procedures;
  - (q) Initiate a prosecution in respect of any breach of benefit/reduction legislation in consultation with the Monitoring Officer; and
  - (r) To decide claims for Council Tax Reductions in accordance with Section 13A of the Local Government Finance Act 1992 and the Councils' agreed Council Tax Support schemes, and award reductions to eligible claimants.
- (ii) Corporate Support
- (a) The sorting and distribution of post and internal mail, including delivery to external offices;
  - (b) Distribution - Franking and dispatch of all Council mail, also specialised mailings to handle bulk items, urgent deliveries, enveloping and labelling requirements;
  - (c) The provision of administrative support to all services of the Council.
- (iii) Electoral Services
- (a) The day to day running of the team.



- (iv) Customer Services
  - (a) The co-ordination of customer care initiatives and provision of customer service centre arrangements, including:
    - (1) Customer services function for the Council/District and relevant partners, including switchboard and reception functions and Information Offices; and
    - (2) Complaints management.
- (v) Freedom of Information and Data Protection
  - (a) Responsible for all Freedom of Information (FOI), Environmental Information Regulations (EIR) and Data Protection (DP) Requests. To ensure requests are dealt with under the relevant legislation, the correct exemptions and exceptions are applied and all are dealt with within the statutory timeframes.

## **5 Head of Development**

### **5.1 Areas of Responsibility**

- (i) The Head of Development is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:
  - (a) promotion of the Borough for inward investment;
  - (b) provision of economic development advice and other business support activities;
  - (c) facilitation of land and property to promote economic development;
  - (d) business liaison activities;
  - (e) participation in the work of regional and sub-regional strategic policy and programme delivery partnerships;
  - (f) development, co-ordination and delivery of regeneration strategies and programmes;
  - (g) development of policy and services for selected business sectors and localities (e.g. Tourism and shopping centres);
  - (h) securing external funds for regeneration;
  - (i) promotion of local partnership approaches to regeneration;
  - (j) to suspend payment of grant awards to partnership funding organisations in appropriate circumstances prior to a monitoring report being presented to Cabinet;
  - (k) to create, maintain and promote facilities and services which assist in the provision of physical recreation opportunities for local people and visitors. This provision to be provided directly or in partnership with other agencies as appropriate;
  - (l) to provide financial, technical and professional advice to local and regional community groups. To promote the development of the arts in the area, either through direct promotion or in partnership with other agencies; and
  - (m) Enhance democracy and community development in the area.

## 5.2 Building Control

- 5.2.1 The Head of Development is authorised to carry out all the Council's functions in respect of the necessary statutory provisions in relation to all matters related to applications for and enforcement action under the building regulations and issues relating to the building acts and any other associated legislation, regulations and provisions, including provisions on dangerous buildings and structures and means of escape in case of fire including the power to:
- (i) determine plans under the Building Regulations and applications for relaxation of the Building Regulation requirements concerning means of escape and requests for dispensations;
  - (ii) to instruct the Monitoring Officer prepare and serve notices in relation to ruinous and dilapidated property and the proposed demolition of buildings and any other notice under Building Acts and any relevant regulations;
  - (iii) carry out the functions of the Council in relation to any matters under the Building Acts and any relevant regulations;
  - (iv) exercise the powers of the Council in relation to accesses and egresses to public and other buildings, and means of escape in case of fire;
  - (v) discharge the functions of the Council in relation to safety certificates for sports grounds;
  - (vi) serve Notices relating to lapse in time for the deposit plans, requirements for works to be carried out in accordance with approved plans, chimneys, dangerous structures, and dilapidated buildings;
  - (vii) serve Notice to open up works;
  - (viii) authorise action to deal with dangerous excavations;
  - (ix) appointment of Authorised Officers to exercise the powers of entry for the purposes of the Building Acts; and
  - (x) to instruct the Monitoring Officer to pursue legal proceedings in connection with non-compliance with any statutory notice, or offence committed under the building acts and or any relevant regulation and to exercise any other available remedies in connection with the same;

But excluding the setting of Building Regulation Charges.

## **6 Business and Town Services Manager**

### **6.1 Areas of Responsibility**

- (i) The Business and Town Services Manager is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:
  - (a) promotion of the Borough for inward investment;
  - (b) provision of economic development advice and other business support activities;
  - (c) facilitation of land and property to promote economic development;
  - (d) business liaison activities;
  - (e) participation in the work of regional and sub-regional strategic policy and programme delivery partnerships;
  - (f) development, co-ordination and delivery of regeneration strategies and programmes;
  - (g) development of policy and services for selected business sectors and localities (e.g.. Tourism and shopping centres);
  - (h) securing external funds for regeneration;
  - (i) promotion of local partnership approaches to regeneration.
  - (j) granting consent for street trading except where a ward councillor objects to the proposal

## **7 Head of Environmental Services**

### **7.1 Areas of Responsibility**

- (i) The Head of Environmental Services is delegated the power to discharge all of the functions in relation to the management of all jointly contracted environmental services in order to enable HBC to properly and efficiently discharge its operations and responsibilities.

### **7.2 Specific Responsibilities**

- (i) The operation of the agency agreement with Hampshire County Council for verge maintenance;
- (ii) Collection of refuse and recycling from domestic and commercial premises;
- (iii) Recycling of all household and commercial waste;
- (iv) Street Cleansing, litter bins, grass cutting including all Council owned land;
- (v) Cleansing of Public Conveniences within the district;
- (vi) The provision of recycling banks in locations in order to promote waste reduction; and
- (vii) Agreement of the arrangements for the provision of a customer service centre to handle service requests and complaints.

## **8 Head of Finance & Assets**

### **8.1 Areas of Responsibility**

- (i) The Head of Finance & Assets is delegated the power to discharge all of the Council's functions relating to the provision of the full range of financial payroll and procurement appropriate and necessary to enable the proper and efficient operations of HBC (but excluding: decisions contrary to financial regulations, contract standing orders or the Treasury Management Policy) to include:
  - (a) Financial Services
    - (1) Maintaining strong financial management underpinned by effective financial controls;
    - (2) The provision of accounting and financial advisory services, including:
      - i Financial appraisal and advice on financial issues to the Council, Cabinet, Committees, Board, Panels, Officers and Councillors;
      - ii Production of annual accounts in line with relevant 'Codes of Practice';
      - iii The administration of the Financial Information System to provide Managers with monthly statements of budgets compared to actual income and expenditure for both Revenue and Capital expenditure;
      - iv The administration of the Collection Fund;
      - v The administration of the external loan debt and cash flow management, including investment of surplus funds, temporary and long-term borrowing and entering into leasing agreements for items of capital expenditure contained within the approved capital programme;
      - vi The drawing up of the Council's revenue and capital estimates for the next financial year including a forecast of future resource requirements;
      - vii The operation of the following tasks relating to the overall administration of the Council:

- a The arrangement of car loans to eligible staff; and
    - b The arrangement of appropriate insurance cover as protection against risks falling on the Council;
  - viii The administration of the Council's payroll, ensuring that each member of staff is paid the correct amount on the due date;
  - ix The making of payments on behalf of the Council to staff, Councillors, individuals, companies and other organisations in accordance with duly authorised payment requests;
  - x The making of arrangements for the collection and proper banking of all the monies of the Council, including the monitoring of the Council's bank account ensuring its reconciliation to prime accounting documents;
  - xi The administration of mortgage loans issued;
  - xii The collection of sundry debts and miscellaneous income from debtors;
  - xiii To estimate current deficits or surpluses on the Collection Fund and to pass the information on to the appropriate precepting authorities;
  - (xiv) a To invest surplus monies and capital receipts pending utilisation in accordance with the provisions of the Local Government and Housing Act 1989 and the policy guidance approved by Council from time to time;
  - b To arrange with the bank the signatures against which the bank will honour all cheques or other orders for payment drawn upon any account or accounts for the time being kept with the bank in the name of the Council, and against which the bank is authorised to accept all requests and receipts for the delivery of securities, papers or other property;
- (3) To implement routine increases in officer car mileage allowances after taking into consideration changes to

motoring costs as supplied from time to time by approved motoring organisations;

- (4) To implement routine increases in Councillors' Allowances in accordance with Regulations issued from time to time and to vary the Councillors' mileage allowance rate automatically in line with any changes agreed to the mileage rate for casual use by officers;
- (5) To exercise the borrowing powers of the Borough Council contained in the Local Government and Housing Act 1989 and to borrow in such manner and upon such terms as are appropriate:
  - a such amounts as are required to meet capital expenditure approved by the Council, within the credit approval under the Local Government and Housing Act 1989; and
  - b such amounts as may be required for defraying expenditure to be met from revenue estimates or for capital financing during the financial year pending the receipt of the sums due to the funds of the Council in respect of the same period.
- (6) To decide how to finance the approved capital programme of the Council within the funding limits set down in Regulations issued under the Local Government and Housing Act 1989 and any policy of the Council which may be determined from time to time; and
- (7) Matters related to Value Added Tax including amendments to charges in the event of the VAT rates being amended and, after consultation with the Monitoring Officer, options to tax or election to waive exemption; determination of indexation of values which the Council has previously agreed will be updated for changes in particular indices.

(ii) Property Services

- (a) Strategic Asset Management - The strategic management of all Council owned land, including:
  - (1) to develop and prepare for approval by Cabinet, and, as necessary, by full Council, and implement the Council's Asset Management Plan and Asset Management Strategy and Policy;



- (2) to review the Council's assets to identify surplus, underused and underperforming assets and assets no longer fit for purpose;
  - (3) to oversee and implement a programme of disposals and reinvestment in property, including devising and proposing for the Council's approval suitable investment criteria; and
  - (4) to develop performance indicators and benchmark the Council's performance in relation to the management of assets with other districts and boroughs in the south of England and to use the results to plan the Council's assets strategically.
- (b) Management of land owned by the Council - Responsibility for the general day-to-day management of non-operational land ("non-operational land" means land not allocated for the use of specific departments or Services within the Council) owned by the Council, all land not currently managed by another council service (or by another party on behalf of the Council), and, as authorised by the Council, any other land, and to negotiate, agree and where appropriate instruct solicitors to complete any transaction in connection with the management of land including:
- (1) full delegation to manage and deal with all transactions at market rent or market value, including, but not limited to, new lettings and licences, lease renewals, lease extensions, variations, surrenders, terminations, rent reviews, re-gearings, extinguishment or modification of covenants, claims for compensation, dilapidations (or claims);
  - (2) planning, management and implementation, within approved budgets, of a planned maintenance programme covering all assets, the maintenance for which the Council is responsible;
  - (3) modification or extinguishment of restrictive covenants;
  - (4) the removal or regularisation of encroachments or the unauthorised occupation or use of Council-owned or leased land; and
  - (5) the authorisation of the temporary use of Council-owned land by third parties or organisations, subject to the standard safeguards protecting the Council's interests and prior consultation with the Monitoring Officer.

- (c) The negotiation, and agreement on behalf of the Council of transactions and valuation matters in relation to Council-owned land and land not owned by the Council, including:
- (1) acquisition of land
    - i The acquisition of land included within any planned acquisition programme or where specific budgetary provision has been approved by Cabinet or the principle of the acquisition has been approved by Cabinet **and** funding within existing budgets is available (no financial limit);
    - ii If an acquisition is not approved by Cabinet, but funding is available within existing budgets then the Head of Finance and Assets is authorised to proceed up to a spend limit of £100,000; and
    - iii If an acquisition is not approved by Cabinet, but funding is available within existing budgets then the Head of Finance and Assets in consultation with the relevant Cabinet Lead is authorised to proceed with spending £100,001 up to a spend limit of £500,000.
- Provided that:
- a external valuation advice is obtained for all transactions within (iii); and
  - b in all transactions within (iii) the purchase price must not exceed that recommended by such external valuation advice;
- (2) disposal of land
    - i the disposal for best consideration of land where the land is either declared by Cabinet to be surplus to requirements or is included in a planned disposal programme approved by Cabinet, or the disposal is agreed by the relevant Cabinet Lead; and
    - ii the grant of easements, wayleaves, and rights of way.
  - (3) provision of asset valuations in accordance with the International Financial Reporting Standards;
  - (4) Provision of valuations for any purpose in connection with the Council's estate; and

- (5) The entering into of exploratory discussions and negotiations, subject to contract, in respect of any transaction for the acquisition or disposal of land and provided that the Council does not become legally morally or otherwise committed to any transaction as a result of such discussions or negotiations.
- (d) Management of land not owned by the Council but leased or licensed to the Council - To provide on behalf of other council services property management, valuation, and negotiation services in connection with land leased or licensed to the Council, and to negotiate, agree and (where appropriate) instruct solicitors to complete any of the following transactions including:
    - (1) all transactions relating to the day-to-day management of the land, including, but not limited to, new leases, licences, extensions, variations, surrenders, rent reviews, claims for compensation, dilapidations (or claims) provided that this falls within approved budget provision; and
    - (2) where no budget exists, or a budget is insufficient for the purpose of the transaction, all transactions relating to the day-to-day management of land in consultation with the relevant Cabinet Lead.
  - (e) The assessment and valuation of land for which the Council pays national non-domestic rates, the appeal against rating assessments and the negotiation and agreement of revised rating assessments for any such land;
  - (f) The determination of the level of statutory compensation payable and authorisation of the payment or acceptance of compensation in connection with compulsory purchase removal and disturbance and planning blight, including:
    - (1) statutory compensation payable by the Council for the loss of land or disturbance payments, including removal expenses fees and costs and home loss payments arising from the Council's exercise or proposed exercise of powers of compulsory purchase or from the service on the Council of a purchase or blight notice; and
    - (2) statutory compensation payable to the Council for the loss of its land, or disturbance payments, including removal expenses fees and costs arising from cases where other bodies possessing compulsory purchase powers have exercised or have resolved to exercise

those powers, or in cases arising out of the service by the Council of a purchase or blight notice.

- (g) The provision of valuation services and other property advice to the Council, Cabinet, committees of the Council and officers of the Council, including:
  - (1) general property and valuation advice; and
  - (2) Representation of the Council in relation to matters affecting land in courts, tribunals, arbitrations, public inquiries and at quasi-judicial proceedings.
- (h) The maintenance of the Council's records in relation to land ownership and lettings and in connection with the use and disposition of the Council's property assets;
- (i) The making of applications for deemed planning permission and listed building consent in relation to Council-owned or other land, including:
  - (a) for permission for development under regulations 3 and 4 of the Town and Country Planning General Regulations 1992 in respect of land owned by the Council; and
  - (b) for permission for development or listed building consent in respect of land not owned by the Council in consultation with the relevant Cabinet Lead and local ward councillor.
- (j) The appointment and management of internal and external consultants and contractors for the purpose of undertaking any of the functions and responsibilities of the Property Services Team.

## **9 Head of Housing**

### **9.1 Areas of Responsibility**

9.1.1 The Head of Housing is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:

(i) **Housing Services**

(a) The provision of a full range of housing advice services in accordance with statutory requirements and appropriate decisions of the Council including:

- (1) the authority to determine applications from households who may be homeless or threatened with homelessness;
- (2) the authority to make arrangements with private landlords, housing associations and other suitable agencies to provide accommodation to homeless households in connection with the Council's statutory duties;
- (3) the authority to make nominations to Registered Social Landlords in accordance with Council policies;
- (4) the removal and storage of property;
- (5) the disposal of uncollected property; and
- (6) other activities relating to housing need:
  - (1) to undertake periodical reviews of the housing needs of the District; and
  - (2) the enabling of development of social housing to meet the district's housing needs.

(ii) **Housing and Community Regeneration**

- (a) development of Housing Strategy;
- (b) promotion of a balanced housing market;
- (c) strategic partnership with housing providers;
- (d) development of policies, programmes and partnership working to combat poverty and social exclusion; and
- (e) strategic policy and programme liaison with lead organisations and partnership bodies involved in community development, education, health and social welfare.

## **10 Head of Legal**

### **10.1 Areas of responsibility**

10.1.1 The Head of Legal is delegated the power to discharge all of the Council's functions relating to the provision of the full range of legal services appropriate and necessary to enable the proper and efficient operations of HBC to include:

### **10.2 Legal Services**

- (i) acting as Solicitor to the Council;
- (ii) authority to prepare, make, execute, sign, seal and complete any agreement, contract, order or other document of whatsoever nature where this is required (expressly or by reasonable implication) to give effect to any legitimate decision of the Council, the Cabinet, any other body of councillors or individual councillor exercising Cabinet powers, or officers acting under properly delegated powers, or to further or enable the performance of any legitimately stated objective, duty, responsibility or power of the Council;
- (iii) to institute or defend any legal proceedings on behalf of the Council where considered appropriate or in the interests of the Council and to do anything which is ancillary or incidental or conducive to the conduct of such proceedings in the Council's interest;
- (iv) authority to institute or defend proceedings of any nature on behalf of or brought against any councillor or council officer in connection with anything done by such councillor or officer in the proper performance of their duties as a councillor or officer of the Council and subject to the Head of Legal observing and conforming with any policy or other decisions made by the Council, the Cabinet, any other body of councillors or individual councillor exercising Cabinet powers, or officers acting under properly delegated powers in relation to such proceedings;
- (v) to instruct Counsel and any other solicitor, or agency, where it is considered expedient so to do;
- (vi) authority to make application to or defend proceedings instituted by any tribunal, board or other forum where such action is necessary for the proper protection of the legitimate interests of the Council, its councillors or officers. To include representing, or arranging for the representation of the Council in any legal proceedings;
- (vi) to ensure the Council complies with freedom of information, environmental information and data protection legislation; and
- (vii) to maintain the Council's Retention Schedule.

Note: the Returning Officer under Representation of the Peoples Act 1983 for Havant Borough area is the Monitoring Officer.

## **11 Head of Neighbourhood Support**

### 11.1 Areas of responsibility

11.1.1 The Head of Neighbourhood Support is delegated the power to discharge all of the functions relating to the provision of parking & traffic management, community safety & neighbourhood quality, environmental enforcement, environmental health, pest control and planning enforcement appropriate and necessary to enable the proper and efficient operations of HBC to include:.

- (i) design and implementation of environmental enhancement schemes;
- (ii) provision of environmental enhancement advice; and
- (iii) powers under the Proceeds of Crime Act 2002.
- (iv) Clean Neighbourhoods and Environment Act 2005
  - (a) To authorise officers to act under the provisions of the Clean Neighbourhoods and Environment Act 2005;
  - (b) To issue Litter Abatement Notices, Litter Clearing Notices, and Street Litter Control Notices;
  - (c) To issue the following fixed penalty notices for Nuisance Parking, Litter, Street Litter Control, Litter clearing, Failure to produce waste transfer note, Failure to produce waste carriers licence, Offences under Dog Control Orders, Failure to nominate Key holder or to notify Local Authority in writing of nominated Key holders details; and
  - (d) Management of abandoned and unwanted end of life vehicles.
- (v) Parking and Highways
  - (a) respond on behalf of the Borough to all Traffic Regulation Order Consultations from Hampshire County Council and the Department of Transport, after consultation with the local Councillor.
- (vi) Management of Car Parks;
  - (a) the operation and management of off-street parking places in the ownership or under the control of the Council except for the setting of charges.
  - (b) to be authorised to waive Penalty Charge Notices in appropriate cases.



(vi) Community Safety

- (a) The provision and management of Community Safety functions in accordance with all statutory and other relevant requirements (including appropriate decisions of the Council) including:
- (1) after consultation with the relevant bodies under the Crime and Disorder Act 1998 and in consultation with the Monitoring Officer, to authorise applications, in accordance with the agreed protocol, for anti-social behaviour orders to the Magistrates' Court under the Act;
  - (2) the provision of an annual Strategic Assessment leading to the development of an annually reviewed Community Safety Plan for the District;
  - (3) authority as the Council's adviser to ensure appropriate provision and management of the Community Safety Partnership for the District;
  - (4) the authority to ensure the effective provision and management of CCTV operations in the District; and
  - (5) authorised to act under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 in so far as it relates to the protection of buildings.

(vii) Trees and High Hedges

- (a) The Head of Neighbourhood Support may under the terms of the Town and County Planning Acts or Part 8 of the Anti-social Behaviour Act 2003 including:
- (1) to make a Tree Preservation Order;
  - (2) confirmation of unopposed or opposed Tree Preservation Orders;
  - (3) amendments to a Tree Preservation Order to deal with valid objections;
  - (4) varying a Tree Preservation Order;
  - (5) issuing a decision not to confirm a Tree Preservation Order;

- (6) revoking a Tree Preservation Order; or
- (7) serving Urgent Works Notices under the Planning (Listed Buildings and Conservation Areas) Act 1990 where budgetary provision has already been made.
- (8) to determine applications to fell or carry out works to trees that are the subject of a Tree Preservation Order;
- (9) to determine Notices of Intent to carry out works to tree within a conservation area;
- (10) to authorise the issuing and serving of Tree Replacement Notices;
- (11) to exercise the functions set out in the Environment Act 1995 and The Hedgerows Regulations 1997 as they relate to hedgerow protection;
- (12) to exercise all the functions of the Council in respect of high hedges under Part 8 of the Anti-Social Behaviour Act 2003 to include:
  - (a) deciding whether to proceed with a complaint relating to high hedges;
  - (b) determining a complaint on high hedges; or
  - (c) authorising the serving of a remedial notice in respect of any remedial works that in the their opinion are required to be carried out to high hedges.

(viii) Environmental Health

(a) General Scope of Responsibilities

- (1) To exercise all powers for the discharge of the Council functions relating to Environmental Health legislation, as amended from time to time except so far as these matters are reserved for Council, Cabinet or Committees, and in particular relating to:
  - i Statutory nuisances;
  - ii Air quality, water quality (recreational and drinking) and pollution control;
  - iii Noise control;
  - iv Contaminated land;
  - v The health safety and welfare of animals;
  - vi Stray dogs, dangerous dogs and dog fouling;

- vii Micro chipping of dogs;
- viii The control of vermin and other pests;
- ix Prevention and control of notifiable infectious diseases;
- x The importation, distribution, production and sale of safe food;
- xi Health, safety and welfare of people affected by work activities;
- xii Controls on smoking in public places;
- xiii Addressing hazards in housing;
- xiv Provision of grants and loans for the adaptation, repair and improvement of houses;
- xv Houses in multiple occupation;
- xvi Empty homes;
- xvii Mobile homes caravan and camping sites;
- xviii Licensing functions in respect of the supply of alcohol, regulated entertainment and supply of late night refreshment;
- xix Licensing of Hackney Carriages and Private Hire vehicles, drivers and private hire vehicle operators;
- xx Licensing of Sex Shops and Cinemas;
- xxi Sexual Entertainment Venues;
- xxii Street Collections;
- xxiii House to House Collections;
- xxiv Licensing functions in respect of gambling;
- xxv Licensing in respect of animals;
- xxvi Anti social behaviour – Anti Social Behaviour, Crime and Policing Act 2014
- xxvii Welfare burials and exhumations;
- xxviii Cemeteries and administration of burials;
- xxix Sanitary conveniences at places of entertainment etc;
- xxx Sunday Trading;
- xxi Health Education and development;
- xxxii Road closures;;
- xxxiv Cinemas;
- xxxv Licensing of a facility (tables and chairs) on the highway;
- xxxvi The Control of Horses Act 2015; and.
- xxxvii Disposable waste and fly tipping

- (2) To make internal arrangements as appropriate under which other persons will be authorised to carry out the functions delegated. Such arrangements may be made formally in writing but shall be equally valid if during an emergency it is made orally and informally and is formalised in writing following the emergency;

- (b) Appointments
  - (1) To appoint and authorise any person to exercise the powers and duties (including prescribed powers of entry), under any legislation appropriate to the service;
  - (2) To engage the services of authorised veterinary practitioners to provide advice and other assistance in respect of the Council's statutory functions relating to animals;
  - (3) To appoint, a Proper Officer for provisions relating to the control of infectious diseases for the purposes of Section 35 of the Public Health (Control of Disease) Act 1984; and
  - (iv) To appoint a public analyst.
- (c) Licensing Functions
  - (1) Licensing Act 2003
    - i To administer the processes under the Licensing Act 2003;
    - ii To determine the following matters under the Licensing Act 2003 including the imposition of appropriate conditions on Licences:
      - a. Applications for Personal Licences – if no objection made;
      - b. Applications for Premises Licences/Club Premises Certificates – if no relevant representation made;
      - c. Applications for Provisional Statements – if no relevant representation made;
      - d. Applications to vary Premises Licences/Club Premises Certificates – if no relevant representation made;
      - e. Applications to vary Designated Premises Supervisor – all cases unless there is a Police objection;
      - f. Request to be removed as Designated Premises Supervisor – all cases;

- g. Applications for transfer of Premises Licences – all cases unless there is a Police objection;
  - h. Applications for interim authorities – all cases unless there is a Police objection;
  - i. Decision on whether a representation is irrelevant, frivolous or vexatious – all cases;
  - j. Applications to grant gaming machine permits for no more than two gaming machines – all cases;
  - k. Decision on whether to consult other responsible authorities on minor variation applications – all cases;
  - l. Determination of minor variation applications – all cases;
  - m. Application by holder of a community premises licence to disapply the requirement for a designated premises supervisor; and
  - n. In circumstances where the Magistrates' Court has determined the licence on appeal:
    - 1. To make representations in defending all appeals to the Magistrates Court against the decisions of the Licensing Sub Committees but he or his representative in consultation with the Monitoring Officer, and if practicable the Chairman or another Member of the relevant Sub-Committee, may mediate Sub-Committee hearing determinations where proposed changes are wholly of a minor or legally technical nature;
    - 2. To make representations as the Environmental Health and Licensing responsible authority;
- (2) Hackney Carriage and Private Hire Vehicle, Driver and Private Hire Vehicle Operator Licences
- i. Determine applications for licences including the imposition of appropriate conditions, renewals, variations and transfers and the power to suspend

and revoke licences and to take any other action delegated by the Licensing Committee;

- ii Decisions as to the appointment and revocation of hackney carriage stands and the number of vehicles thereon (Monitoring Officer).

(3) Gambling Act 2005

- i To administer the processes under the Gambling Act 2005;
- ii To determine the following matters under the Gambling Act 2005 including the imposition of appropriate conditions on Licences:
  - a. Application for Premises Licence – Where no representations received/ representations have been withdrawn;
  - b. Application for a variation to a Licence – Where no representations received/ representations have been withdrawn;
  - c. Application for a transfer of a Licence – Where no representations received/ representations have been withdrawn;
  - d. Application for Provisional Statement – Where no representations received/ representations have been withdrawn;
  - e. Application for Club Gaming/Club Machine Permits – Where no objections made/objections have been withdrawn;
  - f. Applications for other Permits;
  - g. Cancellation of licensed premises Gaming Machine Permits; and
  - h. Consideration of Temporary Event Notices.

(4) Animal Licences (Zoos, and establishments for horse riding, animal boarding, dog breeding, dangerous wild animals, and pet shops)

- i To determine applications for licences including the imposition of appropriate conditions, renewal, transfer, alteration and variation of licenses;

- (5) Sex establishments
  - i To determine applications for grant and renewal of a licence including the imposition of appropriate conditions – where no objections are received;
  - ii To determine applications to transfer a licence – where no objections are received;
  
- (7) Street Collections and house to house collections
  - i To determine applications to grant or refuse in line with Council's Street and House to House regulations.
  
- (8) Caravan and Camping Sites
  - i To determine applications including the imposition of appropriate conditions for site licences;
  
- (9) Houses in Multiple Occupation
  - i To determine applications including the imposition of appropriate conditions for licences;
  
- (10) Other Applications
  - i To make decisions on applications for, and renewal, variation or transfer of, registrations, permits, authorisations, orders, approvals, certificates or designation orders and housing grants or loans. In particular to include:
    - a Premises for sale, storage, preparation or manufacture of food;
    - b Food export certificates and deferred port health inspection of imported foods;
    - c Skin piercing activities;
    - d Chimney heights and furnaces;
    - e Processes prescribed for pollution control;
    - f Loudspeakers in the street;
    - g Prior consent for noise control on construction sites; and

h Diversions of traffic to prevent obstructions.

(d) Enforcement Actions

(1) Environmental Health

i The Head of Neighbourhood Support may

a Notices

1 serve notices (including fixed penalty notices), orders and to take any other action, including, the exercise of default powers and use of emergency powers in pursuance of any Environmental Health statutory provisions. In particular this includes action relating to:

- A The maintenance, repair and/or cleansing of defective, stopped up, leaking or overflowing drainage systems, water closets or soil pipes;
- B Filthy or verminous premises, articles or persons;
- C Nuisances, drainage of premises and water supplies;
- D Control of noise, contaminated land, air pollution, water quality (drinking or recreational) and other forms of pollution;
- E Works relating to unoccupied buildings under Sections 29-32 of the Local Government (Miscellaneous Provisions) Act 1982;
- F Section 76 of the Building Act 1984 (defective premises);
- G Pest Control;
- H Dog Control;
- I Protection of animal welfare;



- J Food safety and food hygiene;
- K The control of infectious diseases;
- L Unsafe housing conditions;
- M Houses in multiple occupation;
- N Control of smoking in public places;
- O Empty Dwelling Management Orders – Section 133 or 136 Housing Act 2004;and
- P Anti Social Behaviour Act in response to noise nuisance cases. Local Government (Miscellaneous Provisions) Act 1976 S20 & 21.

b Miscellaneous

- 1 agree transfers of enforcement responsibilities under the Health and Safety (Enforcing Authority) Regulations 1989, as amended from time to time;
- 2 recover costs incurred in exercising work in default powers as a civil debt or by putting a legal charge on the premises in consultation with Legal Services;
- 3 In consultation with the Monitoring Officer, to authorise the institution of legal proceedings (whether civil or criminal) in respect of any matter relating to the service;
- 4 waive (or refund) any fees or charges in appropriate circumstances, except the repayment of grants upon a breach of grant conditions;
- 5 enter into contracts with third parties to deliver pest control and associated services;
- 6 make designation of Dog Control Orders; and

- 7 exercise powers for the re-homing or destruction of seized dogs.

(2) Planning Enforcement

I The Head of Neighbourhood Support may:

- a serve notices for information such as Planning Contravention Notice or a Notice under Section 330 of the Town and Country Planning Act 1990 (as amended) or a Section 171 Notice under the Town and Country Planning Act 1990 (as amended), and Requisitions for Information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
- b decide to take no further action in respect of any breach of planning control except where the development in question is materially contrary to the policies of an approved development plan or adopted planning policy approved by the Council, or where a local/ Ward Councillor has requested the breach of planning control be referred to a Committee for decision;
- c authorise the Monitoring Officer to:
  - 1 prepare and serve any statutory notice (and withdraw any such notice before it has taken effect) under the Town and Country Planning Acts including breach of condition notices, enforcement notices, special enforcement notices, stop notices, temporary stop notices, listed building enforcement notices, conservation area enforcement notices, section 215 notices and notices under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in exercise of the Council's functions as Local Planning Authority;
  - 2 prepare and serve a notice under section 23 Local Government (Miscellaneous Provisions) Act 1976 in relation to any dangerous tree;

- 3 take legal proceedings under the Planning (Listed Buildings and Conservation Areas) Act 1990;
  - 4 take injunctive proceedings under Section 187B of the Town and Country Planning Act 1990, Section 222 of the Local Government Act 1972, Sections 9 and 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Section 214A of the Town and Country Planning Act 1990 in exercise of the Council's functions;
  - 5 prepare and serve Notices under Section 215 and Completion Notices under Section 94 of the Town and Country Planning Act 1990; and
  - 6 pursue legal proceedings in connection with non-compliance with any statutory notice, breach of planning control, or offence committed under the planning acts and to exercise any other available remedies in connection with the same;
- d to implement powers for the discontinuance, removal and related enforcement of advertisement displays under the Town and Country Planning Act 1990 and any associated Regulations; and
  - e in consultation with the Monitoring Officer, make any decision regarding the conduct of ongoing actions or cases relating to any breach of planning control in a court of law.

## **12 Head of Organisational Development**

### **12.1 Areas of responsibility**

12.1.1 The Head of Organisational Development is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:

- (i) the provision of personnel services including recruitment and resourcing, pay, pensions and other terms and conditions of employment, employee relations, internal communications, training and development, organisational development (including performance appraisal and performance contracts), health and safety (in relation to Council staff and activities), health and absence management and dignity at work/equal opportunities; and
- (ii) to act as the Council's principal adviser on all human resources and employment issues. Develop, implement, monitor and continuously review HR policies and practices which reflect corporate strategy, HR practise, changing requirements and promote a consistent approach.

### **12.2 Democratic Services Team Leader**

- 12.2.1 the provision of a Secretariat to meet the statutory requirements for meetings and proceedings of the Council, Cabinet, and its Committees. The provision of secretarial, administrative and office support and training and development services generally to meet the needs of Councillors in performing their roles;
- 12.2.2 to approve Councillors' attendance at conferences, seminars and training events, subject to the event being relevant to a training and development need or the Councillor's role on the Council;
- 12.2.3 In respect of the establishment of Licensing Sub-Committees, that the selection of membership for the Sub-Committees be delegated to the Democratic Services Team Leader, in consultation with the Chairman of the Licensing Committee; and
- 12.2.4 in respect of the establishment of a Governance & Audit Committee, that the selection of membership for the Sub-Committees be delegated to the Democratic Services Team Leader, in consultation with the Chairman of the Governance & Audit Committee.
- 12.2.5 in respect of task and finish panels of the Scrutiny Board, that the selection for membership and the terms of reference of the Panels be delegated to the Democratic Services Team Leader in consultation with the Chairman of the Scrutiny Board

- 12.2.6 in respect of the scrutiny and policy development panels of the Scrutiny Board, changes to the membership of these panels be delegated to the Democratic Services Team Leader in consultation with the Chairman of the Scrutiny Board
- 12.2.7 to administer and manage the Council's deputation schemes including delegated powers to refuse an application when an application is received after the period within which an application should be received
- 12.2.8 to administer and manage requests to ask questions at Council meetings in accordance with the Council's Questions Scheme (See Section L, Part 3 of this Constitution) including the authority to refuse requests, which are defamatory, frivolous or offensive
- 12.2.9 to administer and manage the Council's Petition Scheme (Section L, Part 3 of this Constitution) including the authority to refuse a petition on the grounds set out in this scheme
- 12.2.10 to register Councillors as data controllers under the data protection legislation
- 12.3 Civil Emergencies, Emergency Planning and Corporate Health & Safety
  - 12.3.1 The preparation of Civil Emergency Plans for the Council, in consultation with Hampshire County Council and all necessary outside bodies and organisations.
  - 12.3.4 The management of the Business Continuity Plans for the Council and the Corporate Health and Safety support to the organisation to enable them to operate a safe system of work.

## 13 Head of Planning

### 13.1 Areas of responsibility

### 13.2 Planning Applications

13.2.1 The Head of Planning is delegated full authority to exercise and discharge all planning functions in accordance with all statutory and other requirements of a Local Planning Authority concerning the control of development and regulation and use of land under the provisions of the Town and Country Planning Acts (including the Town and Country Planning Act 1990, Town and Country Planning (Control of Advertisements) Regulations 1992 and the Planning (Listed Building and Conservation Areas) Act, 1990 and any associated amendments, or related Acts, legislation, regulations and provisions) including the power to:

- (i) accept, administer, process (including requiring the submission of more information), publicise, decline to determine (where the regulations allow), and to determine all applications and consultations submitted to the Council on any planning matter **except** an application:
  - (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 his/her spouse or partner) or by any member of the Council's staff (or his/her spouse or partner);
  - (c) which the Head of planning considers should be presented to Committee for decision including for example, those development that in his opinion are particularly controversial, likely to be of significant public interest, or which may have a significant impact on the environment; or
  - (d) where, within the application consultation period<sup>1</sup> a local Ward Councillor (or in the absence of a local Ward Councillor the Chairman or Vice Chairman of the Development Management Committee) requests in writing to the Head of planning, giving good material planning reasons, that the application be determined by the Development Management Committee.
  - (e) administer and determine applications for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, and related powers;

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<sup>1</sup> means the period allowed for public consultation applicable to the application under consideration

- (f) agree minor amendments to approved schemes where in the opinion of the Head of Planning a fresh application is not justified;
- (g) determine all matters submitted pursuant to conditions imposed on planning and other permissions, Section 106 Planning Obligations, and Unilateral Undertakings;
- (h) determine in consultation with the Monitoring Officer, applications for Lawful Development Certificates under Section 191 and 192 of the Town and Country Planning Act 1990;
- (i) grant any approval and to respond to any consultation sought under the Town and Country Planning General Permitted Development Order 1995 to include the determination of all applications for prior notification or approval;
- (j) in consultation with the Monitoring Officer issue certificates of alternative development under the Land Compensation Act 1961;
- (k) determine the Council's case to be presented at appeals including the decision whether to appoint consultants to act upon the Council's behalf or to submit claims for costs against an appellant;
- (l) respond to consultations from Hampshire County Council and adjoining Local Planning Authorities;
- (m) to give informal advice as to whether consent is required under the Town and Country Planning Acts including making decisions as to whether a breach of planning control has occurred; and
- (n) to exercise all the Council's functions with respect to 'screening' and 'scoping' opinions under the Town and Country Planning Acts and any relevant regulations made thereunder.

### 13.3 Section 106 Agreements

#### 13.3.1 The Head of Planning may:

- (i) approve the expenditure of funds allocated under S 106 Agreements;
- (ii) instruct the Monitoring Officer with respect to:

- (a) any matter (including revocation or modification) related to Section 106 Planning Obligations under the Town and Country Planning Act 1990 including any matter necessary to protect the Council's or public interest in the granting of permission pursuant to either a decision of a Committee or under delegated powers; and
- (b) revocation, in consultation with the local Ward Councillor, of any Legal Agreement under Section 52 of the Town and Country Planning Act 1971.

For the avoidance of doubt, the Monitoring Officer may action any instruction received from the Head of Planning; and

- (iii) determine any planning application which has been previously considered by the Development Management Committee and where the Committee has decided to grant permission subject to a satisfactory legal agreement being concluded, subject to such legal agreement having been completed.

#### 13.4 Land Drainage

13.4.1 The Head of Planning is delegated the power to discharge all of the Council's functions relating to land drainage to include:

13.4.2 The management of all land drainage functions, including the Council's functions under Section 262 of the Public Health Act 1936 Including authorising the Monitoring Officer in relation to:

- (i) service of notices and making of requirements under section 112(1)-(4) of The Water Industry Act 1991; and
- (ii) service of notice under Section 16(1)(a) of the Land Drainage Act 1991.

#### 13.5 Planning Policy

13.5.1 The Head of Planning is delegated the power to discharge all of the Council's functions relating to planning policy and urban design to include:

- (i) The provision of planning policy and urban design services including:
- (ii) preparation and implementation of statutory development plans;
- (iii) provision of planning policy information and guidance; and
- (iv) instruct professional advisors and (in consultation with the Monitoring Officer) Counsel to assist the Council, where it is considered expedient to do so.

but excluding:



- (a) the final agreement of all Council Policies, Strategies and Plans developed by the service.

13.6 Other matters

13.6.1 The Head of Planning may:

- (i) respond to Goods Vehicle Operator Licence applications (including presenting evidence at any subsequent Inquiry);
- (ii) issue article four directions restricting the exercise of permitted development;
- (iii) respond to consultations from Government departments, Crown Agencies, statutory undertakers, Hampshire County Council and adjoining local planning authorities;
- (iv) authorise officers to enter land or premises, to inspect, investigate and to exercise any other related powers in accordance with the Council's functions as local planning authority or under the Building Regulations;
- (v) take any urgent action after consultation with the local Ward Councillor, or the Chairman or Vice Chairman of the Committee, or the relevant Cabinet Lead; and
- (vi) instruct the Monitoring Officer to respond to applications to the High Court under Sections 287 and 288 of the Town and Country Planning Act 1990, and in consultation with the Monitoring Officer and the Chairman of the Planning Committee (or the relevant Cabinet Lead), make applications to the High Court under the same sections in respect of decisions by the Secretary of State.
- (vii) issue a Community Infrastructure Stop Notice under Section 218 of the Planning Act 2008 and The Community Infrastructure Levy Regulations 2010

## **14 Head of Programmes, Redesign & Quality**

### 14.1 Areas of responsibility

14.1.1 The Head of Programmes, Redesign & Quality is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:

(i) Performance Management

(a) The provision of such management services as are necessary to enable the proper and efficient operations and administration of Havant Borough Council, including:

- (1) performance management reporting and advice; and
- (2) co-ordination of Best Value reviews.

(ii) Corporate Strategy

(a) The provision of such corporate strategy development services as are necessary to enable the proper and efficient operations and administration of Havant Borough Council, including:

- (1) Corporate Strategy; and
- (2) co-ordination of Information Communications/ Technology strategy, and of all matters related to administration of the Council's arrangements for the provision of Information and Communications Technology Services within the Council.

but excluding:

final agreement of all Council Policies, Strategies and Plans developed by the service; and contracts relating to ICT

(iii) Policy Management

(a) The provision and management of the Council's policy development in accordance with relevant requirements (including appropriate decisions of the Council) and including policy research and advice;

### **Address Management**

The Head of Development is delegated the power to discharge all of the Council's functions relating to Address management to include:

- (i) The making of changes to the Local Land and Property Gazetteer and to the Local Street Gazetteer; and
- (ii) Naming and numbering of new and existing streets and properties in consultation with other relevant authorities
- (i) Amendments to names of existing streets within the District; and
- (ii) Setting fees and charges for application to change numbers of properties of streets in the District.

## **15 Effective Working Manager**

### 15.1 Areas of responsibility

15.1.1 The Effective Working Manager is delegated the power to discharge all of the Council's functions relating to the provision of the full range of property services appropriate and necessary to enable the proper and efficient operations of HBC to include:

(i) Facilities Management

(a) In undertaking the management of the Council's facilities to provide all necessary items required to ensure the buildings are fit for purpose provided such procurement is within budget and accords with the Council's Financial and Procurement Regulations.

(ii) Lost and Uncollected Property

(b) To take all necessary action in accordance with Section 41 of the Local Government (Miscellaneous Provisions) Act 1982 relating to lost and uncollected property.

## **16 Strategic Procurement Manager**

### 16.1 Areas of responsibility

16.1.1 Provides strategic procurement support to the management of the Council's procurement projects, ensuring compliance with all statutory requirements and regulations and the policies and procedures of the council.

### 16.2 Planning Applications

16.2.1 The making of applications for deemed planning permission and listed building consent in relation to Council-owned or other land, including:

- (i) for permission for development under regulations 3 and 4 of the Town and Country Planning General Regulations 1992 in respect of land owned by the Council; and
- (ii) for permission for development or listed building consent in respect of land not owned by the Council in consultation with the relevant Cabinet Lead and local ward councillor.

## 17 **Head of Research & Marketing**

### 17.1 Areas of Responsibility

17.1.1 Provides strategic research & intelligence on internal and external Markets to support the management of the Council's Services, Policies and Transformation programmes. Provides a current and functioning Pricing Strategy.

17.1.2 Act as the Council's Senior Information Risk Officer, taking ownership of the Council's information risk policy, acting as an advocate for information risk to the Council's Executive Board and providing written advice to the Director of Strategy & Governance on the content of the Council's annual governance statement in regard to information risk.

17.1.3 The Head of Research and Marketing is delegated the power to discharge all of the Council's functions relating to the provision of the full range of services appropriate and necessary to enable the proper and efficient operations of HBC to include:

- (i) Authority to instigate agreements with external market research agencies to undertake necessary work relating to the requirements of the Council.

# **PART 3**

## **STANDING ORDERS**





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# **Section E**

## **Council Standing Orders**



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## **S01 Interpretation and Chairman's Ruling**

- 1.1 These Orders apply to meetings of the full Council.
- 1.2 These rules, subject to the exceptions set out below, apply to meetings of committees and sub-committees except Licensing Committee and Licensing Sub-Committee when hearing licensing applications and other matters to which the Licensing Sub-Committee Procedure Rules apply.
- 1.3 These orders do not apply to Cabinet and the West of Waterlooville Major Development Area (MDA) Joint Planning Committee.
- 1.4 Standing Orders 3, 4, 13, 14, 17, 18, 20, 21 and 23 do not apply to Committees and Sub-Committees and the Scrutiny Board.
- 1.5 References in these Orders to the Mayor, Leader of the Council or Chairman, include the appointed deputy or any other Councillor acting in their absence.
- 1.6 References in these Orders to the Mayor shall include the Chairman of any meeting where appropriate.
- 1.7 References to Committee in these Orders shall include the Scrutiny Board
- 1.8 These Orders should be read in conjunction with other parts of the Council's Constitution.
- 1.9 \*\*\*These Orders are subject to any statute or other enactment whether passed before or after these Orders came into effect.
- 1.10 The ruling of the Mayor on the application and interpretation of these Orders is final.
- 1.11 Every member of the Council must within twenty eight days from the start of each municipal year sign a declaration on a form supplied by the Democratic Services Team, that he or she has read the Council's latest version of the Constitution
  - 1.11.1 For the purposes of this standing order a municipal year begins from the date of the annual council meeting.
  - 1.11.2 A failure to comply with Standing Order 1.11 will be considered as a breach of the adopted Councillors' Code of Conduct.

## **SO2 Suspension and Amendment of Standing Orders**

- 2.1 \*\*\*With the exception of the Orders marked by an asterisk (\*\*\*), any Order may be suspended at Council meetings 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 orders will not

be moved without notice unless at least one half of the whole number of Councillors are present.

- 2.2 Orders may be changed by Council either at the Annual Meeting or following recommendation by the Governance & Audit Committee or by a motion or notice made at Council.

### **SO3 Mayor and Deputy Mayor**

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

### **S04 Political Groups and Leaders**

- 4.1 A political group will be treated as constituted when the Chief Executive 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.
- 4.2 \*\*\*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").
- 4.3 \*\*\*The leader of the group may be changed by a further notice in writing to the Chief Executive signed by a majority of the members of the group.
- 4.4 \*\*\*The name of the group and of "the representative" (see also Order 4.2) may be changed by a further notice in writing to the Chief Executive signed by the leader of the group or a majority of the members of the group.



- 4.5 \*\*\*A Councillor of the Council is to be treated as a member of a political group if s/he has: -
- a) signed a notice in accordance with Order 4.1; or
  - b) given the Chief Executive 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.
- 4.6 \*\*\*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;
  - b) s/he has notified the Chief Executive in writing that s/he no longer wishes to be treated as a member of the group; or
  - c) s/he joins another political group; or
  - d) the Chief Executive 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.
- 4.7 \*\*\*No person shall be treated as a member of more than one political group at any given time.
- 4.8 The Chief Executive will keep and maintain a record of the current membership of each political group.
- 4.9 The Leader of the Council will be elected at the Annual Meeting of the Council and subsequently in accordance with Orders 7.1 and 13e).
- 4.10 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.

## **SO5 Establishment of Committees and Sub-Committees**

- 5.1 Subject to Orders 5.2 to 5.8 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.
- 5.2 The Council shall establish a Licensing Committee with not less than 10 and not more than 15 members.
- 5.3 The Council shall establish a Development Management Committee.
- 5.4 The Council shall establish a Scrutiny Board.
- 5.5 The Council shall establish a Governance & Audit Committee.

- 5.6 The Council shall establish a Joint Human Resources Committee.
- 5.7 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.
- 5.8 The Scrutiny Board may establish Scrutiny and Policy Development Panels and Task and Finish Groups to undertake the review of existing practices and the development of new policies in particular service areas. For clarification these Panels have no decision making powers and are not therefore classified Committees or Sub Committees.
- 5.9 \*\*\*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. 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.
- 5.10 \*\*\*Subject to Order 9, where a matter is delegated the decisions of the committee or sub-committee do not require approval by the Council (or committee) unless the delegation has been previously withdrawn in relation to the particular item.

**SO6 Membership of Committees, Sub-Committees and Panels and Joint Authorities and Joint Committees**

- 6.1 In relation to committees the Annual Meeting of the Council will:
- a) Subject to Order 5 above, 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.
- 6.2 \*\*\*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).
- 6.3 Those serving on sub-committees are not required to be members of the parent committee unless required by law or standing orders.

- 6.4 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 the Council.
- 6.5 \*\*\*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;
- 6.6 \*\*\*"The principles of political balance" are: -
- a) 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;
  - b) that the majority of seats on the body are allocated to a political group holding the majority of seats on the Council;
  - c) that, subject to (a) and (b) 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
  - d) that, subject to (a) and (c) above, the number of seats held by each political group on individual bodies is proportionate to that group's membership of the Council.
- 6.7 \*\*\*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.
- 6.8 \*\*\*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.
- 6.9 In addition to Order 5.2, non-voting co-opted members may be appointed by: -
- a) The Council, to serve on its committees;
  - b) Committees to serve on their sub-committees; and.

- c) The Scrutiny Board to serve on the Board, its sub committees or its Scrutiny and Policy Development Panels.
- 6.10 As well as allocating seats on committees, the Council may allocate seats in the same manner for substitutes/standing deputies.
- 6.11 For each committee, the Council may appoint up to the same number of substitutes/standing deputies in respect of each political group as that group holds seats on that committee. For the Scrutiny Board all Councillors who are not members of the Scrutiny Board or Cabinet shall be appointed as a standing deputy for the Scrutiny Board.
- 6.12 Substitutes/standing deputies 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.
- 6.13 Substitute/standing deputies 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 substitute/standing deputy;
  - 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.
- 6.14 Every member of the Council must within twenty eight days from being appointed to a Committee, Sub Committee, or Board sign a declaration on a form supplied by the Democratic Services Team, that he or she has read the terms of reference for each committee, sub committee or board he or she has been appointed to. A failure to comply with this standing order will be considered as a breach of the adopted Councillors' Code of Conduct.

## **SO7 The Leader**

- 7.1 The Council will appoint the Leader at its Annual Meeting in accordance with Article 6 and Order 13 e).

## **SO8 Chairmen and Vice-Chairmen**

- 8.1 Subject to 8.4 and 66.1 below, the Council will appoint chairmen and (where required) vice-chairmen of all committees and boards.
- 8.2 Chairmen and (where required) deputies of sub-committees of committees will be appointed by the parent committee.
- 8.3 The Council may at any time remove a chairman or vice-chairman of a committee.

- 8.4 The Chairman of the Development Management Committee will be appointed by the Committee on a rotation basis. The term of office of each Chairman shall start from the date and time he or she is appointed by the Committee and end at the date and time a new Chairman is appointed by the Committee.
- 8.5 Where there is a vacancy for chairman, the vice-chairman will act as chairman until the Council fills the vacancy.
- 8.6 Where there are vacancies for both chairman and vice-chairman, the committee or sub-committee will appoint one of its members to be temporary chairman until the vacancy is filled by the Council.
- 8.7 Written notice of the resignation of a chairman or deputy will be effective on receipt by the Chief Executive.
- 8.8 If the chairman and deputy are disqualified from acting, are absent, or decline to act as chairman, the meeting will appoint another member to chair the meeting. If that Councillor has to leave, another Councillor should be appointed.
- 8.9 A joint meeting should appoint a member to chair the meeting.

#### **SO9 Decisions Taken Under Delegated Powers**

- 9.1 Decisions taken by a relevant committee and sub committee exercising delegated powers will have immediate effect.

#### **SO10 Convening Meetings**

- 10.1 Subject to Order 10.2, the Chief Executive is responsible for determining the schedule of and convening all meetings.
- 10.2 Dates and times of ordinary meetings of the Council, will be agreed by the Council at the Annual Meeting.
- 10.3 The Annual Meeting of the Council will take place on the second Wednesday following the municipal elections in May unless otherwise agreed by the Council.
- 10.4 \*\*\*A meeting of the Council will take place each year in order to calculate the budget requirement and set the council tax.
- 10.5 \*\*\*Those listed below may request the Chief Executive to call extraordinary Council meetings: -
- a) The Council by resolution;
  - b) The Mayor;

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

10.6 Meetings of committees and sub-committees will be convened by the Chief Executive in consultation with the chairman.

### **SO11 Cancelling Meetings**

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

### **SO12 Withdrawal of Items from Agenda**

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

### **SO13 Order of Business**

13.1 Subject to Orders 13.3; 13.4; and 14.8, the Agenda and order of business for meetings will be determined by the Monitoring Officer in consultation with the appropriate chairman and chief officers. Items may be withdrawn from an agenda with the consent of the meeting.

13.2 The order of business may be altered at the meeting.

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

- a) the Election of a person to preside if the Mayor is not present;
- b) special business introduced by the outgoing Mayor;
- c) the Election of the in-coming Mayor and of the Deputy Mayor; and
- d) administration matters concerned with the Mayor of Havant's charity.

The business in detail at the second part of the Annual meeting will be to:

- e) elect a person to preside if both the Mayor and Deputy Mayor are absent;
- f) approve the minutes of the last meeting as a correct record;
- g) receive any announcement from the Mayor and Chief Executive;

- h) receive any declarations of interests from Councillors on any matter being considered by the meeting;
- i) elect the Leader of the Council (at the Annual Meeting to be held following the Borough Council local elections, or at any subsequent Annual Meeting held on a day when the Leader's term of office is to end by virtue of Section 44E(3) of the Local Government Act 2000 (as amended) (i.e. the first Annual Meeting after the Leader's normal day of retirement as a Councillor));
- j) to receive nominations and appoint Councillors to serve on all relevant committees and to appoint all Chairman and Vice-Chairman as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3 of the Constitution;
- k) appointment of representatives to outside bodies relating to non executive functions;
- l) Where under (j and k) above, a leader of a political group represented on the Council wishes, between one Annual meeting of the Council and the next to make casual changes to that group's representation on any particular board, committee, panel and other body to which proportionality applies they may request the Monitoring Officer to formally approve any such change which shall then have immediate affect. When the Monitoring Officer approves such change, the matter shall be reported for noting to the next ordinary meeting of the Council;
- m) Notices of Motion submitted under Order 14.1 (to be dealt with in their order of receipt by the Monitoring Officer); and
- n) Any other business specified in the summons to the meeting.

13.4 The business at all ordinary Council meetings will be conducted as follows:

- a) If the Mayor and Deputy Mayor 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;
- e) Approval of the minutes of the last meeting as a correct record;

(The Mayor will move 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) Consideration by the Council of any Petitions Requiring Debate that have been submitted in accordance with the Council's Petition Scheme (see Appendix 2 of Section L of Part 3 of this Constitution) and which have been included on the Agenda for the Council meeting;
- f) To receive questions from, and provide answers to the public, provided such questions are submitted in accordance with the Questions Procedure as set out in Appendix 1 of Section L of Part 3 of this Constitution and;
  - (i) Notice of the question must be given in writing or electronically to the Democratic Services Team Leader, not less than two days before the meeting, excluding the day of the meeting;
- h) Report of the Cabinet and any questions under Orders 23.2 and 23.3;
- i) Reports or minutes of the Scrutiny Board, including matters referred to Council by the Scrutiny Board;
- j) Minutes of other committees and any questions under Orders 23.2 and 23.3;
- k) Notices of Motion submitted under Order 14.1 (to be dealt with in their order of receipt by the Chief Executive); and
- l) Any other business specified in the summons to the meeting.

### 13.5. Petitions Requiring Debate

13.5.1 Where a petition requiring debate has been properly submitted in accordance with the Council's Petition Scheme (see Appendix 2 of Section L of Part 3 of this Constitution) is included on the Agenda for an ordinary or extraordinary Council meeting, the main petition contact (as defined in the Council's Petition Scheme) or a person nominated by the main petition contact to act on their behalf, will be allowed to speak for a maximum of 5 minutes in order to present their petition to Council.

13.5.2 A petition requiring debate under the Council's Petition Scheme will be debated by Council Members. Any Council Member who speaks in a Petition Debate may speak only once and for a maximum of five minutes on the issue raised by the Petition Requiring Debate. When chairing a Petition Debate the Mayor will normally seek to ensure that the Petition Debate lasts for a maximum of 25 minutes, although the Mayor has discretion to extend the time for a Petition Debate where he/she considers this to be appropriate.

13.5.3 At the end of the Petition Debate, the Mayor will ask for motions on how the Council wishes to respond to the Petition Requiring Debate which may include:



- a) taking the action requested in the Petition, with or without modifications;
- b) noting the Petition, but not taking the action requested in the Petition;
- c) commissioning further investigation into the matter; and/or
- d) deciding whether to make recommendations to the Cabinet where the matter falls to the Cabinet to make the final decision.

Councillors will vote on such motion(s) by voice or by show of hands, or by ballot, at the discretion of the Mayor.

13.5.4 The main petition contact will receive written confirmation from the Council of the decision taken by the Council following a Petition Debate and this will be published on the Council's Website (unless under all the circumstances the Council believes that this would be inappropriate).

#### **SO14 Notices of Motion to Council**

- 14.1 Except for the motions listed in Order 19.1, and motions in relation to the Council's response to a Petition Requiring Debate under Order 13.5.3, written notice of every motion must be received by the Democratic Services Team Leader no later than 12 noon six working days before the meeting.
- 14.2 Motions must be signed by one or more Councillors.
- 14.3 The proposer of the motion will be taken as being the first signature on the Notice of Motion, unless otherwise indicated on the notice.
- 14.4 The motion may be withdrawn from the agenda if the proposer is not present at the time that it is due to be considered.
- 14.5 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.
- 14.6 Motions must either be about matters which affect the Council or the interests of its residents, provided that no such 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).
- 14.7 Following consultation with the Monitoring Officer, the Mayor may:
  - a) exclude from the Council agenda any motion which he/she considers to be out of order; or,
  - b) amend any motion subject to the agreement of the proposer.
- 14.8 Motions will be listed on the Council agenda in the order received.

- 14.9 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.
- 14.10 When the proposer of a motion is unable to attend the Council meeting he/she may write to the Mayor authorising another Councillor who signed the motion to move it. If no such authority has been given, the motion falls.
- 14.11 Motions containing proposals which would:
- a) increase capital and/or, revenue expenditure; and/or
  - b) reduce the income of any committee must first be referred to the Cabinet by the Monitoring Officer prior to consideration by Council.
- 14.12 Prior to consideration of a motion, the Mayor may invite the meeting to decide whether it should be referred to the Cabinet or an appropriate committee(s) for a report.

### **SO15 Quorum**

- 15.1 The minimum number of voting Councillors necessary for business to be dealt with at each meeting (the "Quorum") is as follows:

Council	10
Scrutiny Board	3
Licensing Committee	4
All other Committees	3
Sub-Committees	3

- 15.2 There must be a quorum within 15 minutes of the scheduled start time of a meeting, otherwise it cannot take place.
- 15.3 If, during the course of a meeting, the number of Councillors present falls below the quorum the meeting cannot continue and any outstanding business will be carried forward to the next meeting.

### **SO16 Minutes of Meetings**

- 16.1 The Monitoring Officer will prepare the minutes of every meeting.
- 16.2 \*\*\*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.
- 16.3 \*\*\*The names of Councillors present at a meeting will be recorded in the minutes.

### **SO17 Committee Minutes/Reports Submitted to Council**

- 17.1 When moving approval of committee minutes, the Mayor may:

- a) Correct any factual inaccuracy; and/or,
- b) Following an explanation, seek the consent of Council to take back any item for reconsideration by the committee.

There will be no discussion.

- 17.2 \*\*\*If a Mayor declares a pecuniary interest in part of a committee's minutes, he/she should move them with the exception of that part.
- 17.3 A Mayor may move part of a committee's minutes, he/she may move them with the exception of any item.
- 17.4 Any excepted items must be moved, after the other proceedings have been dealt with, by another member of the committee who was present at that meeting.

### **SO18 Amendments to be Moved at Council**

- 18.1 Subject to Orders 18.2 to 18.5, amendments to motions may be moved at the meetings without prior notice.
- 18.2 When the Cabinet makes recommendations to the 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 Democratic Services Team Leader by 4pm. on the fifth day after the meeting of the Cabinet. Any such amendment, together with the recommendations of the Cabinet, will be referred to the Scrutiny Board which will report to the Council meeting which calculates the budget and sets the Council Tax ("the Budget Council").
- 18.3 Nothing in Order 18.2 will prevent:
  - a) Councillors moving amendments at Budget Council in accordance with Order 18.1; or
  - b) the Cabinet reconvening and revising their recommendations to Budget Council.

Where such amendments or revised recommendations arise out of the proceedings of the Scrutiny Board, nothing in Order 18.3 will require a further meeting of the Scrutiny Board in such circumstances.

- 18.4 Amendments to the Constitution of the Council (other than amendments proposed by the Monitoring Officer pursuant to Article 12 of 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.

- 18.5 Where the Monitoring Officer has submitted proposals to change the Constitution pursuant to Article 12 of Part 2 of this Constitution, nothing in Order 18.5 shall prevent Councillors from:
- a) disapproving the proposed changes; or
  - b) Moving amendments to the proposed changes at Council in accordance with Order 18.1.

### **SO19 Motions Without Notice at 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 approve or 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) to amend a motion
  - (h) to withdraw or amend 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 Order 2.1)
  - (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;
  - (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; 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

- (p) to adjourn the meeting. If seconded and before taking the vote, the Mayor will deal with any unopposed business (i.e. against which no amendment has been notified in accordance with Orders 18.2 to 18.4). If the motion to adjourn is carried, there will be no right of reply allowed.

(NOTE: During the course of a debate, motions (l) to (p) may only be moved by Councillors who have not already spoken in the debate).

- 19.2 A Councillor may not move any of the motions in Order 19.1 more than once at a meeting. If a motion under that Order 19.1 is not carried, it cannot be moved again on the same item unless the Mayor decides the circumstances have changed significantly.

## **SO20 Submission of Motions and Amendments**

- 20.1 Motions and amendments must relate to items included on the agenda or accepted by the meeting as urgent business.
- 20.2 An amendment cannot be considered if it is inconsistent with an amendment previously adopted or repeats an amendment previously rejected.
- 20.3 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.
- 20.4 Motions and amendments cannot be debated until they have been moved and seconded.
- 20.5 Subject to Order 19.1(d) only one amendment may be moved at a time. No further amendments can be moved until the previous amendment has been dealt with.
- 20.6 Each amendment must be voted on separately.
- 20.7 If an amendment is carried, the amended motion becomes the substantive motion to which further amendments may be moved.
- 20.8 If an amendment is lost, other amendments may be moved to the original motion.
- 20.9 The mover may with the approval of the seconder withdraw an amendment at any time in which case no debate will be allowed.

20.10 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

## **SO21 Speeches at Council**

21.1 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. New matters must not be introduced.

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. (This is a request for the Mayor to rule on an alleged irregularity in either the Constitution or conduct of the meeting). In these circumstances:
  - i) a point of order must be raised as soon as it arises;
  - ii) the Councillor must refer to both the standing order in question and how it has been broken;
  - iii) a ruling must be given by the Mayor before the debate continues; and
  - iv) there will be no discussion on the ruling.
- c) When giving a personal explanation (i.e. when a Councillor believes that a later speaker has misunderstood or misquoted him/her). In these circumstances:
  - i) The Councillor must ask the permission of the Mayor to interrupt the speaker; and
  - ii) There will be no discussion on the Mayor's decision.
  - iii) 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 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.
- 21.7 Speeches must be no longer than five minutes although they may be extended by three minutes if the meeting agrees. The meeting may also change these time limits. This does not apply to speeches by the Councillor of the Cabinet for Finance and the finance spokesperson of the opposition group(s) at the meeting referred to in Order 10.4 to calculate the budget requirement and set Council Tax levels.
- 21.8 Councillors should address the meeting through the Mayor.

## **SO22 Voting**

- 22.1 Councillors will vote by voice or by show of hands, or by ballot, at the discretion of the Mayor. Where there is a vote by show of hands, all Councillors wishing to vote “for” the motion or amendment should vote before the votes “against” are taken, including the Mayor using his/her first (but not casting) vote.
- 22.2 At Council:
- a) Two Councillors may demand before the vote is taken that the names of those voting be recorded in the minutes; and
  - b) Councillors may not vote unless they are in the meeting for the full duration of the item.
- 22.3 \*\*\*A Councillor may demand that his/her vote be recorded in the minutes, where they have requested it immediately after the vote has been taken.
- 22.4 \*\*\*Subject to the provisions of any enactment and Order 22.7, all questions will be decided by a majority of Councillors present and voting.
- 22.5 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 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.
- 22.6 \*\*\*Where there is an equality of votes, the Mayor may exercise a second or casting vote.

- 22.7 \*\*\*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. 20 affirmative votes are required).
- 22.8 Immediately after a vote is taken at a budget decision meeting of the Council 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, whether held in public or private. A budget decision meeting is the full Council meeting at which the Council's budget is approved for the coming year.

### **SO23. Questions at Council**

- 23.1 A Councillor may submit a question to the Leader of the Council or a Cabinet Lead in respect of Cabinet Lead reports of the Cabinet submitted to Council.
- 23.2 Subject to Order 23.4, a member of the Council may ask the Leader of the Council, a Cabinet Lead, or the chairman of a committee, a question on any matter in relation to which the Council has powers or duties, or which affects the interests of the Borough or its residents.
- 23.3 Subject to Order 23.4, a member of the committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties, or which affects the Borough, and which falls within the terms of reference of that committee or sub-committee.
- 23.4 A Councillor may only ask a question under Orders 23.2 or 23.3 if either:
- a) they have given at least 48 hours notice in writing of the question to the Democratic Services Team Leader; or
  - b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Democratic Services Team Leader at least two hours prior to the start of the meeting.
- 23.5 An answer may take the form of:
- a) a direct oral answer;
  - b) where the desired information is contained in a publication of the Council or other published work, a reference to that publication; or
  - c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- 23.6 A Councillor asking a question under Order 23.2 or 23.3 may ask one supplementary question without notice of the Councillor to whom the first



question was asked. The supplementary question must arise directly out of the original question or the reply.

- 23.7 The submission of a question under Order 23.2 or 23.3 shall not restrict the right of a member to propose a motion or amendment upon the minutes.

#### **SO24 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 Order is suspended. (see Order 2.1)
- 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 Order is suspended.

#### **SO25 Conduct at Meetings**

- 25.1 If the Mayor calls the meeting to order Councillors shall be silent.
- 25.2 If a Councillor behaves improperly or offensively or deliberately obstructs business, the Mayor may direct the Councillor to be silent.
- 25.3 If the Councillor continues such behaviour the Mayor may direct either that the Councillor leaves the meeting or that the meeting be adjourned for a specified period.
- 25.4 If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If the interruption continues, the Mayor may order his/her removal from the meeting.
- 25.5 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.
- 25.6 Subject to Order 27 below Councillors, officers and members of the public shall not permit mobile telephones, pagers, or other such devices with audible operating signals, to be brought into Council, Committee or sub-committee meetings unless the audible call function is muted for the duration of the meeting.

#### **SO26 Duration of Council Meetings**

- 26.1 Any meeting of the council 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.

#### **SO27 Recording and Filming of Meetings**

- 27.1 Recording and filming may take place in accordance with the film protocol set out in Appendix 8 of Section L of Part 3 of this Constitution..

**SO28 Deputations**

- 28.1 The Council, its Committees, sub committee and the Scrutiny Board may receive a deputation in accordance with the procedures set out in Appendices 3, 4, 6 and 7 of Section L of Part 3 of this Constitution.

**S029 Council Standing Orders – Interpretation**

- 29.1 The ruling of the Mayor at a Council meeting on proper interpretation of Council Standing Orders or on any proceedings of the Council is final and not open to challenge at the meeting.



# **Section F**

## **Access to Information Standing Orders**



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### **SO30. Scope**

- 30.1 Except as otherwise indicated, these orders apply to all meetings of the Council, the Scrutiny Board, the Governance & Audit Committee, the Joint Human Resources Committee, regulatory and other committees and public meetings of the Cabinet (together called meetings).
- 30.2 These orders do not apply to the West of Waterlooville Major Development Area (MDA) Joint Planning Committee

### **SO31. Additional Rights to Information**

- 31.1 These Orders do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **SO32. Rights to Attend Meetings**

- 32.1 Members of the public may attend all meetings subject only to the exceptions in these Orders.

### **SO33. Notices of Meetings**

- 33.1 Subject to Order 33.2 ,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.
- 32.2 Where the meeting is convened at shorter notice, notice will be posted and published at the time the meeting is convened.

### **SO34. Access to Agenda and Reports before the Meeting**

- 34.1 The Council will make copies of the agenda and reports open to the public available for inspection on its website and at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection and published on the Council's website 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.

### **SO35. Late Items**

- 35.1 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 this meeting as a matter of urgency and the urgency reason(s) is recorded in the minutes.

### **SO36. Supply of Copies**

- 36.1 The Council will supply copies 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.

to any person on payment of a charge for postage and any other costs.

### **SO37. Access to Minutes etc After the Meeting**

37.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, 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.

### **SO38. Background Papers**

#### **38.1 List of background papers**

38.1.1 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 Order 40.3 and in respect of Cabinet reports, the advice of a political advisor).

#### **38.2 Public inspection of background papers**

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

### **SO39. Summary of Public's Rights**

39.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and be available to the public at the Council offices.

### **SO40. Exclusion of Access by the Public to Meetings**

#### **40.1 Confidential information - requirement to exclude public**

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

#### **40.2 Exempt information - discretion to exclude public**

40.2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

40.2.2 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.

#### **40.3 Meaning of confidential information**

40.3.1 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 Order or any enactment.

#### **40.4 Meaning of exempt information**

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

	<b>Description</b>	<b>Qualification</b>
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).	<p>Information within paragraph 3 is not exempt information if it is required to be registered under-</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 1993.</li> </ul> <p>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.</p>
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	Information within paragraph 7 is exempt information if and so long, as in all the circumstances of the case, the public interest in

	connection with the prevention, investigation or prosecution of crime.	maintaining the exemption outweighs the public interest in disclosing the information.
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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.

#### **SO41. Exclusion of Access by the Public to Reports**

- 41.1 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 Order 40, 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.

#### **SO42. Business Containing Exempt Information**

- 42.1 A member of the public may request the report author who wrote a report to be considered at any meeting of the Council, its Committees, sub committee, Scrutiny Board and public meetings of the Cabinet to:-
- (a) recommend that an item of business containing exempt information should be taken in public; and/or
  - (b) allow him/her to inspect the report or any background document to a report.
- 42.2 If such a request is refused, the report author must give a reason for the decision together with details of the appeals procedure under Order 43.1
- 42.3 A decision by a report author under Order 42.2 will remain valid unless altered on appeal to the meeting which is to consider the item concerned.

#### **SO43. Public Rights of Appeal**

- 43.1 The procedure for appealing against a report author’s decision in accordance with Order 42.2 is as follows:
- (a) The appellant must write to the Monitoring Officer giving details of the item concerned together with the reason (s) for his/her request at least 24 hours before the meeting in question; and
  - (b) The Monitoring Officer will make a determination as to the status of the report and background papers. The decision will be notified to the appellant and the Chairman of the Committee prior to the meeting.

#### **SO44. Application of Orders to the Cabinet**

- 44.1 Orders 45-57 apply to the Cabinet and its committees, Cabinet Leads making decisions under delegated powers and Key Decisions made by Officers under delegated powers. If the Cabinet or its committees meet to take a key decision, then subject to Order 47 (general exception) or Order 48 (special urgency), it must also comply with Orders 29-40. A key decision is as defined in Article 10 of this Constitution.
- 44.2 If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the Council and Cabinet Forward Plan by which it is to be decided, then it must also comply with Orders 29-40 subject to Order 47 (general exception) or Order 48 (special urgency). This requirement does not include meetings, whose sole purpose is for officers to brief Councillors.

#### **SO45. Key Decisions**

- 45.1 A “key decision” means an executive decision which is likely:
- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

#### **SO46 Procedure Before Taking a Key Decision**

- 46.1 Subject to Order 47 (general exception) and Order 48 (special urgency), a key decision may not be taken unless at least 28 clear days before the decision is taken it is: included in the Council and Cabinet Forward Plan, made available for public inspection at the Council Offices and published on the Council’s website stating:
- (a) that a Key Decision is to be made;
  - (b) the matter in respect of which the decision is to be taken;
  - (c) where the decision maker is an individual that individuals’ name and title;
  - (d) where the decision is to be taken at a Cabinet Meeting or Council, its name and list of its Members;
  - (e) the date on which, or the period within which, the decision is to be made;

- (f) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the Key Decision is to be made;
- (g) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available(h) that other documents relevant to those matters may be submitted to the decision maker; and
- (i) the procedure for requesting details of these documents (if any) as they become available.

46.2 If the public may be excluded from the meeting at which the matter is to be discussed or, pursuant to these Orders, the documents relating to the decision need not be disclosed to the public, the notice must contain particulars of the matter but may not contain any Confidential Information, Exempt Information or particulars of the advice of a political adviser or assistant.

#### **SO47 General Exception**

47.1 Subject to paragraph 48, where publication of the intention to make a Key Decision under paragraph 46 is impracticable, the decision may only be made:

- (a) when the officer responsible for proposing the decision has informed the Chairman of the Scrutiny Board, or if there is no such person, each member of the Scrutiny Board by notice in writing, of the matter about the decision is to be made; and
- (b) a copy of the notice given pursuant to (a) has been displayed for public inspection at the Council's offices and on the Council's website for at least 5 clear working days.

47.2 As soon as reasonably practicable after the Democratic Services Team Leader has complied with Order 47.1 (a) he or she shall make available for inspection at the Council's offices and publish on the Council's website a notice setting out the reasons why compliance with Order 46.1 is impracticable.

#### **SO48 Special Urgency**

48.1 Where the date by which a Key Decision must be made makes compliance with Orders 46 and 47 impracticable, the decision may only be made if the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred from:

- (a) the Chairman of the Scrutiny Board;
- (b) if there is no such person or they are unable to act, the Mayor of the Council; or

- (c) if the Mayor of the Council is unable to act, the Deputy Mayor of the Council.

48.2 As soon as reasonably practicable after obtaining any such agreement a notice of the reasons that the matter is urgent and cannot be deferred must be made available for public inspection at the Council Offices and published on the Council's website.

#### **S049. Report to Council**

##### **49.1 When a Scrutiny Board can require a report**

49.1.1 If a Scrutiny Board thinks that a key decision has been taken which was not:

- (a) included in the Council and Cabinet Forward Plan;
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Scrutiny Board Chairman, or the Mayor or Deputy Mayor under Order 48,

the Board may require the Cabinet to submit a report to the Council within such reasonable time as the Board specifies. The power to require a report rests with the Board, but is also delegated to the Monitoring Officer who shall require such a report on behalf of the Board when so requested by the Chairman, or in their absence any five Councillors. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Board.

##### **49.2 Cabinet's report to Council**

49.2.1 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Scrutiny Board, then the report may be submitted to the meeting after that. The report to 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.

##### **49.3 Quarterly Reports on Special Urgency Decisions**

49.3.1 In any event the Leader will submit reports to the Council on the Cabinet key decisions taken in the circumstances set out in Order 48 (special urgency) in the preceding three months. The report will include the particulars of the key decisions so taken and a summary of the matters in respect of which those key decisions were taken.

#### **S050. Record of Decisions**

##### **50.1 Decisions at Meetings of the Cabinet or its Committees**

50.1.1 As soon as reasonably practicable after any meeting of the Cabinet or any of its committees where a decision was made, whether in public or in private, the Democratic Services Team Leader will produce a record of that decision and this will include the following information:

- a) a record of the decision and the date it was made;
- b) a statement of the reasons for the decision; and
- c) any alternative options considered and rejected at that meeting.

50.1.2 This record will be made available for public inspection at the Council's offices and on the Council's website.

50.1.3 In the absence of an officer, the person presiding at the meeting will produce the record detailed in 50.1.1.

50.1.4 For the purposes of this standing order, the minutes of the meeting shall be regarded as a record of decisions made by the Cabinet or its committees.

## **50.2 Executive Decisions made by Cabinet Leads and Officers**

50.2.1 As soon as reasonably practicable after a Cabinet Lead or an officer has made an executive decision under delegated powers, the Democratic Services Team Leader shall publish a statement of that decision which includes the information specified in Order 46.1 on the Council's website

## **50.3 Non Executive Decisions Made by Officers**

50.3.1 As soon as reasonably practicable after an officer has made a non-executive decision of the type in Order 50.3.2, the officer must produce a written statement including the information specified in Order 50.3.3.

50.3.2 The non-executive decisions referred to in Order 50.3.1 are those taken:

- (a) under a specific express authorisation; or
- (b) under a general authorisation and the effect of the decision is to—
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which materially affects the Council's financial position.

50.3.3 The statement referred to in Order 50.3.1 shall include -

- (a) a record of the decision including the date it was made;



- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected when making the decision;
- (d) where the decision is taken under a specific express authorisation, the name of any member of the Council who has declared a conflict of interest in relation to the decision.

50.3.4 Any written statement produced in accordance with this Order will be available for public inspection at the Council's offices and on the Council's website.

50.3.5 The duty imposed by Order 50.3..1 is satisfied where, in respect of a decision, a written record containing the information referred to that Order is already required to be produced in accordance with any other statutory requirement

50.3.6 Nothing in this Order shall require the disclosure of confidential information or exempt information as defined in these Orders.

#### **S051. Cabinet Meetings Relating to Matters Which Are Not Key Decisions**

51.1 The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

#### **S052. Attendance at Meeting of the Cabinet and Receipt of Papers**

52.1 Councillors

- (a) Councillors who are not members of the Cabinet can attend all meetings of the Cabinet but will not be able to participate in any debate or decision making;
- (b) All members of the Cabinet will also receive all other papers prepared for such meetings; and
- (c) Others Councillors may obtain such papers by requesting the same from the Democratic Services Team Leader.

#### **S053. Decisions by Individual Members of the Cabinet and Officers**

##### **53.1 Reports intended to be taken into account**

53.1.1 Where an individual Cabinet Lead or officer receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear working days after receipt of that report.

##### **53.2 Record of individual decision**

- 53.2.1 As soon as reasonably practicable after a Cabinet decision has been taken by an individual Cabinet Lead or a key decision has been taken by an officer, he/she will prepare, or instruct the Democratic Services Team Leader to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected and any conflicts of interest declared. The provisions of Orders 39 and 40 will also apply as far as relevant to the making of decisions by individual members of the Cabinet.
- 53.2.2 This Order does not require the disclosure of exempt or confidential information.

#### **S054. Scrutiny Board Access to Documents**

##### **54.1 Rights to copies**

- 54.1.1 Subject to Order 56.2 below, the Scrutiny Board (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:
- (a) any business transacted at a public or private meeting of the Cabinet or its committees; or
  - (b) any decision taken by an individual Cabinet Lead; or
  - (c) any key decision made by an officer.

#### **S055. Additional Rights of Access for Councillors**

##### **55.1 Material relating to previous business**

- 55.1.1 All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:
- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5, 6 and 7 of the categories of exempt information; or
  - (b) in relation to a document containing exempt information falling within paragraph 3 of the categories of exempt information it includes information relating to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract.

##### **55.2 Material relating to key decisions**

- 55.2.1 All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 40 above applies.

### 55.3 **Nature of rights**

55.3.1 These rights of a Councillor are additional to any other right he/she may have.

### **S056. Rights of Councillors – “Need to Know”**

56.1 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.

56.2 Subject to Order 56.3 below, the circumstances where a “need to know” will 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 Lead;
- (c) Where the matter is within the remit of a Scrutiny Board 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

56.3 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.

56.4 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 why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform his/her duties.

# **Section G**

## **Budget and Policy Framework Standing Orders**



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## **SO57. The framework for executive decisions**

- 57.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 3 of Part 2 of this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

## **SO58. Process for developing the framework**

- 58.1 The process by which the budget and policy framework shall be developed is:
- (a) The Cabinet will publicise through the Council and Cabinet Forward Plan and other methods a timetable for making proposals to the 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 Members of the Council, including the chairman of the Scrutiny Board 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;
  - (c) At the end of that period, the Cabinet will then draw up draft proposals having regard to the responses to that consultation. The Scrutiny Board have responsibility for fixing their own work programme, and will need to take into account the Council and Cabinet Forward Plan in doing so. As part of its consideration of the proposals it is open to the Scrutiny Board or its Panels and Sub Committees to consult, investigate, research or report in detail with policy recommendations. The Cabinet will take any response from the Scrutiny Board into account in drawing up draft proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response; and
  - (d) Once the Cabinet has approved the draft proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

## **SO59. Procedure for Conflict Resolution - Plans and Strategies**

- 59.1 This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out on Article 3 of Part 2 of this Constitution and to any plan/strategy for the control of the Council's borrowing and capital expenditure. Orders 59.2 and 59.5 below have been incorporated into these Codes as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
- 59.2 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the



Council has any objections to it, the Council must take the action set out in Order 60.3.

59.3 Subject to 59.6 below, before the 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.

59.4 Where the Council gives instructions in accordance with Order 59.3, it must specify a period of at least five 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 Council for the Council's consideration; or
- (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

59.5 When the period specified by the Council, referred to in Order 59.4 has expired, the 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 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.

- 59.6 Where an amendment to a draft plan or strategy has been submitted under Council Standing Order 18.2, 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 Council and not (for the purposes of Order 59.2 to 59.5 above) as an objection to it.

#### **SO60 Procedure for Conflict Resolution - Revenue Budget**

- 60.1 This procedure applies to estimates and calculations relating to the revenue budget and Council Tax. Orders 60.2 to 60.6 below have been incorporated into these Orders as required by the Local Authorities (Standing Orders) (England) Regulations 2001. Those Orders do not apply to estimates and calculations submitted by the Cabinet to the Council where the estimates and calculations were drawn up by the Cabinet on or after 8th February in any financial year.
- 60.2 Subject to Order 60.6, where, before 8th February in any financial year, the Cabinet submits to the 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, or 52ZF, 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 Order 60.3.

- 60.3 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Order 60.2(a), it must inform the Leader of the Council 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 Council's requirements.
- 60.4 Where the Council gives instructions in accordance with Order 60.3, it must specify a period of at least five 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 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 Council for the Council’s consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
- 60.5 When the period specified by the Council, referred to in Order 60.4 has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Order 60.2(a) 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 Council’s objections, and
  - (d) the Cabinet’s reasons for that disagreement,
- which the Leader of the Council submitted to the Council, or informed the Council or, within the period specified.
- 60.6 Orders 60.2 to 60.5 shall not apply in relation to calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (provisions relating to Council Tax capping).
- 60.7 Where estimates and calculations are drawn up by the Cabinet on or after 8th February in any financial year and are submitted to the Council for their consideration, the procedure in Orders 61.2 to 61.6 will not apply. In these circumstances the estimates and calculations will be submitted to the Scrutiny Board, together with amendments submitted in accordance with Council Standing Order 18.2. Where the Scrutiny Board has any objection to the estimates and calculations, it will report such objections to the Council, the Leader and the appropriate Cabinet Lead. The Leader and/or the appropriate Cabinet Lead will report to the Council whether they agree or disagree with any objection of the Scrutiny Board.

### **SO61. Decisions Outside the Budget or Policy Framework**

- 61.1 Subject to the provisions of Order 63 and Financial Regulations in relation to the budget, and Orders 62 and 64 in relation to the policy framework, the Cabinet, [committees of the Cabinet, individual members of the Cabinet and any officers discharging Cabinet functions] 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 Council.

- 61.2 If the Cabinet, [committees of the Cabinet, individual members of the Cabinet and any officers, discharging executive functions] 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 not authorised by Order 63 or Financial Regulations, then the decision must be referred by that body or person to the Council for decision. If the advice of the Monitoring Officer is that the decision would be contrary to the policy framework and not authorised by Order 64, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions of Order 62 apply.

#### **SO62. Urgent Decisions Outside the Policy Framework**

- 62.1 The Cabinet, a committee of the Cabinet, an individual Cabinet Lead or officers, discharging Cabinet functions 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 Borough would be prejudiced if the matter were not determined before the next scheduled Council meeting, and
  - (b) the Chairman of the Scrutiny Board (or in their absence the Mayor or, in the absence of both, the Deputy Mayor) agrees that the decision is a matter of urgency.
- 62.2 The advice of the Chief Executive, Chief Finance Officer or Monitoring Officer and the consent of the Chairman of the Scrutiny Board (or, if relevant, the Mayor or Deputy Mayor) to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 62.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **SO63. Virement and In-Year Changes to the Budget**

- 63.1 Steps taken by the Cabinet, [a committee of the Cabinet, an individual Cabinet Lead or officers, discharging executive functions] to implement Council policy

shall not exceed those budgets allocated to each budget heading, subject to Orders 63.2 to 63.4 below.

63.2 Such bodies or individuals shall be entitled to vire across budget headings as follows:

(a) Capital

- 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 Lead for Finance).
- The Cabinet may vire capital up to £500,000 across budget headings or up to £250,000 from a revenue budget heading (including unallocated contingency) to capital.
- Any capital virement above £500,000 shall require the approval of full Council.

(b) Revenue

- A Chief Officer may vire revenue up to £50,000 across budget headings (or, up to £100,000 with the approval of the Chief Finance Officer).
- The Cabinet may vire revenue up to £250,000 across budget headings (including up to £250,000 for a particular matter from unallocated contingency).
- Any revenue virement above £250,000 shall require the approval of full Council.

63.3 The Cabinet may:

- (a) 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 £2,000,000 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
- (b) Increase the capital budget provided that additional expenditure can be funded through:
- Additional external resources
  - Additional capital receipts
  - Additional credit approvals

63.4 The Chief Executive may exercise any of the powers of the Cabinet under 63.2 and 63.3, in consultation with the Leader, the Cabinet Lead for Finance and the Chief Finance Officer where the legal or financial position of the Council or the

interests of the residents of Borough 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 next meeting of the Cabinet.

#### **SO64. In-year Changes to Policy Framework**

- 64.1 The responsibility for agreeing the policy framework lies with the Council, and decisions by the Cabinet, [a committee of the Cabinet, an individual Cabinet Lead or officers, discharging executive functions] must be in line with it. Subject to Order 62, 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.

#### **SO65. Call-in of Decisions Outside the Budget or Policy Framework**

- 65.1 Where the Scrutiny Board 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.
- 65.2 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 meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Board if the monitoring officer or the chief finance officer conclude that the decision was not a departure.
- 65.3 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 Scrutiny Board may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the 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 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 Council be minuted and circulated to all councillors in the normal way; or
  - (b) amend the Council's financial regulations 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 Council be minuted and circulated to all councillors in the normal way; or

- (c) where the 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/Chief Finance Officer.

# **Section H**

## **Cabinet Standing Orders**





## **CONTENTS**

- [SO 66.](#)      **How the Cabinet operates**
- [SO 67.](#)      **The Conduct of Cabinet Meetings**
- [SO 68](#)        **Recording and Filming of Cabinet Meetings**
- [SO 69](#)        **Appointments to Outside Bodies**



## **SO66. How the Cabinet Operates**

### **66.1 Who May Make Cabinet Decisions**

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

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an individual Cabinet Lead; or
- (d) an officer of the authority.

### **66.2 Appointments and Delegation by Leader**

- (a) At the Annual Meeting of the Council, the Leader will present to the Council the names of the Councillors appointed to the Cabinet by the Leader (including the Cabinet Lead who is appointed as the Deputy Leader) and their Portfolios.
- (b) Either at the Annual Meeting of the Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of:
  - (i) the detailed remits of the Portfolios of the Cabinet Leads;
  - (ii) 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:
    1. The extent of authority of the Cabinet as a whole;
    2. The extent of any authority delegated to individual Cabinet Leads, including details of any limitation on their authority;
    3. 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;
    4. The nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet Leads appointed to any joint committee for the coming year; and

5. 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.
- (c) Every member of the Cabinet must within twenty eight days from the start of each municipal year sign a declaration on a form supplied by the Democratic Services Team, that he or she has read the Council's latest version of the Constitution
  - (d) Every member of the Cabinet must within twenty eight days from being appointed to a Cabinet sign a declaration on a form supplied by the Democratic Services Team, that he or she has read the terms of reference of the Cabinet and understands the responsibilities delegated to him or her. A failure to comply with this standing order will be considered as a breach of the adopted Councillors' Code of Conduct.

### **66.3 Sub-delegation of Cabinet Functions**

- (a) Where the Leader delegates a Cabinet 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;
- (b) Where the Leader delegates a cabinet function to a committee of the Cabinet or a Cabinet Lead then unless the Leader directs otherwise, a committee of the Cabinet or a Cabinet Lead may delegate further to a Council officer;
- (c) Even where Cabinet functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation; and
- (d) 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.

### **66.4 The Scheme of Delegation and Cabinet functions**

The Leader may amend the Scheme of Delegation set out in Part 3 of this Constitution insofar as it relates to executive functions at any time during the year in accordance with the procedure set out below.

- (a) Whenever the Leader wishes to make an alteration to the allocation of responsibilities for the discharge of the Council's executive functions the following procedure shall apply:
  - (i) Where the Leader wishes to delegate the discharge of an executive function that has not been previously delegated:

1. to an officer; or
2. to the Cabinet; or
3. to a Committee of the Cabinet; or
4. to a Cabinet Lead.

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.

The Monitoring Officer will ensure that a record of the delegation of the executive function is entered into the Register of the Delegation of Executive Functions and will report the new delegation to Council at the earliest opportunity.

(ii) Where the Leader wishes to transfer the discharge of an executive function that has been previously delegated:

1. from one officer to another officer; or
2. from an officer to the Cabinet, a Committee of the Cabinet, or a Cabinet Lead; or
3. from the Cabinet to an officer, a Committee of the Cabinet, or a Cabinet Lead; or
4. from a Committee of the Cabinet to an officer, the Cabinet, or a Cabinet Lead; or
5. from a Cabinet Lead, to an officer, the Cabinet, or a Committee of the Cabinet.

then in each case 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.

The Monitoring Officer will ensure that a record of the transfer of the executive function is entered into the Register of the Delegation of Executive Functions.

(iii) Where the Leader wishes to withdraw the delegation of an executive function that has been delegated to either:

1. an officer; or
2. the Cabinet; or
3. a Committee of the Cabinet; or
4. a Cabinet Lead;

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.

The Monitoring Officer will ensure that a record of the withdrawal of the executive function is entered into the Register of the Delegation of Executive Functions.

#### **66.5 Place and Time of Cabinet Meetings**

- a. The Cabinet will meet in accordance with the agreed published Calendar of Meetings. Arrangements for 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 Hollybank Room at The Public Service Plaza or another location to be agreed by the Leader with the Democratic Services Team Leader; and
- b. All meetings will commence at 2pm. All such meetings which have not completed the business on the summons for that meeting by 6.30pm shall stand adjourned at that time.

#### **66.6 Public or private meetings of the cabinet?**

The Access to Information Orders in Section F of Part 3 of this Constitution set out the requirements covering public and private meetings. In addition to the legal requirements, consideration should also be given to the principles of decision-making set out in Article 10 of this Constitution.

#### **66.7 Quorum**

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

## **66.8 How are decisions to be taken by the Cabinet?**

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Orders in Section F of Part 3 of this Constitution; and
- (b) Where executive decisions are delegated to a committee of the Cabinet, the orders applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **66.9 How are decisions to be taken by the Cabinet?**

66.9.1 Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Orders in Section F of Part 3 of the Constitution; and

66.9.2 Where executive decisions are delegated to a committee of the Cabinet, the orders applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

66.9.3 Subject to Order 86 below, decisions of the Cabinet, its committees and Cabinet Lead and key decisions made by officers under delegated powers, which have not been called in in accordance with Scrutiny Standing Orders, (Section I of Part 3 of this Constitution), will come into force or may be implemented from the fifth day after the day on which the decision was published

66.9.4 Subject to Order 86 below, decisions of the Cabinet, its committees and Cabinet Lead and key decisions made by officers under delegated powers, which have been called in in accordance with Scrutiny Standing Orders, Section I, Part 3 of this Constitution will come into force in accordance with Scrutiny Standing Orders.

66.9.5 Non key decisions made by officers under delegated powers will come into immediate effect.

## **SO67. The Conduct of Cabinet Meetings**

### **67.1 Chairman of Meeting**

67.1.1 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 a person appointed to do so by those present will chair the meeting.

### **67.2 Attendance Rights**

- (a) The right to attend is set out in the Access to Information Orders in Section F of Part 3 of the Constitution. It is a matter for the Cabinet to determine if



these orders should be widened for example for members of the public to attend meetings that would otherwise be private; and

- (b) There will be a standing invitation to Chairman of the Scrutiny Board to attend public meetings of the Cabinet, including parts of the meeting where exempt items are being discussed. The Chairman of the Scrutiny Board shall be entitled to receive the agenda for the meeting (including exempt matters).

### **67.3 Speaking Rights**

Members of the public are able to make a deputation to Cabinet on any matter which is before a meeting for decision in accordance with the procedures set out in Appendix 5 of Section L of Part 3 of this Constitution.

### **67.4 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) declaration of interest, if any;
- (c) matters referred to the Cabinet (whether by the Scrutiny Board or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Standing Orders or the Budget and Policy Framework Standing Orders set out in Sections G and I of Part 3 of this Constitution;
- (d) consideration of reports from Scrutiny Board; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure orders set out in Section F of Part 3 of this Constitution.

### **67.5 Consultation**

- 67.5.1 All reports to the Cabinet from any Cabinet Lead 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 relevant boards, panels, committees and sub committees, and the outcome of that consultation.

### **67.6 Rights to place items on the Cabinet agenda**

- (a) 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.

- (b) Any Cabinet Lead 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.
- (c) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Council or Scrutiny Board for reconsideration and for reports of the Scrutiny Board.
- (d) 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 an 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.

## **68 Recording and Filming of Cabinet Meetings**

- 68.1 Recording and filming may take place in accordance with the film protocol set out in Appendix 8 of Section L of Part 3 of this Constitution.

## **69 Appointments to Outside Organisations**

- 69.1 At its first meeting in each municipal year, the Cabinet shall appoint representatives to outside organisations in connection with Executive functions
- 69.2 Where the Leader wishes to change one of the Council's appointed members (including standing deputies) on an outside bodies in connection with executive functions he may request the Democratic Services Team Leader to make any such change, which shall then have immediate effect, the matter shall be reported for noting to the next meeting of the Cabinet for noting.



# **Section I**

## **Scrutiny Standing Orders**



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## Scrutiny

### SO70. Establishment and Membership

- 70.1 (a) The Council will establish the Scrutiny Board set out in Article 6 of Part 2 of this Constitution and will appoint to it as it considers appropriate from time to time.
- (b) The Scrutiny Board shall comprise of 11 elected members.
- (c) All Councillors except members of the Cabinet may be members of the Scrutiny Board. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- (d) The Chairman of the Scrutiny Board will be appointed by the Council.
- (e) The Scrutiny Board may appoint up to two people as non-voting co-optees, provided that a majority of the members of the Board are elected members.
- (f) The Scrutiny Board may appoint up to five Scrutiny Leads to undertake the functions set in [The Differing Roles of an Elected Councillor](#) (see online Policy Hub).
- (g) The Scrutiny Board may appoint Scrutiny and Policy and Development Panels to undertake the work of the Scrutiny Board. The membership of these panels may be all Councillors, who are not members of the Cabinet. These panels shall not have decision making powers and can only make recommendations to the Scrutiny Board.
- (h) The Scrutiny and Policy Development Panels may co-opt members of other Scrutiny and Policy Development Panels.
- (i) The Scrutiny Board and the Democratic Services Team Leader, in consultation with the Chairman of the Scrutiny Board, may establish Task and Finish Panels to undertake specific reviews. Such Panels may not make decisions but may make recommendations to the Scrutiny Board.
- (j) Every member of the Council must within twenty eight days from being appointed to a Scrutiny and Policy Development Panel must sign a declaration on a form supplied by the Democratic Services Team, that he or she has read the terms of reference for each panel he or she has been appointed to. A failure to comply with this standing order will be considered as a breach of the adopted Councillors' Code of Conduct.

### SO71. Terms of Reference



- 71.1 The general and specific role of the Scrutiny Board and its Sub Committees and Panels will be as set out in Article 6 of Part 2 of this Constitution.

**SO72. Meetings of the Scrutiny Board**

- 72.1 There shall be at least four ordinary meetings of the Scrutiny Board every municipal year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary Scrutiny Board meeting shall be called by the Chief Executive at the request of the Chairman of the Scrutiny Board or, by any [5] members of the Board or the Monitoring Officer.

**SO73. Quorum**

- 73.1 The quorum for the Scrutiny Board shall be in accordance with Council Standing Order 15.

**SO74. Work programme**

- 74.1 The Scrutiny Board's panels and sub-committees of the Board shall undertake reviews and report their findings to the Scrutiny Board.
- 74.2 The Scrutiny Board, its sub committees and panels shall be responsible for monitoring the performance of the Cabinet Leads. If the panels consider that actions need to be taken to improve performance these shall be submitted to the Scrutiny Board for consideration.
- 74.3 The Scrutiny and Policy Development Panels and the sub committees of the Scrutiny Board shall be responsible for setting their own work programmes and in doing so they shall take into account the wishes of members on the Board who are not members of the largest political group on the Council. The Scrutiny Board may allocate reviews to the sub committees' and panels' work programmes.
- 74.4 The work programme of Task and Finish Panels will be established by the Scrutiny Board or the Democratic Services Team Leader after consultation with the Chairman of the Panel.
- 74.5 The Scrutiny Board's sub-committees and panels shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do, they submit their findings and recommendations to the Scrutiny Board. The Scrutiny Board shall consider the reports of its sub committees and panels and shall submit its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Board at the next available meeting.
- 74.6 The Scrutiny Board may also undertake its own reviews and monitor the performance of the Cabinet Leads.

**SO75. Matters referred by Councillors to the Scrutiny Board**

- 75.1 Any non-executive member may refer to the Board, its sub committees or its panels any matter which is relevant to the functions of the Board/sub committee/panel by giving notice in writing to the Democratic Services Team Leader.
- 75.2 Any executive member may refer to the Scrutiny Board any local government matter which is relevant to the functions of the Board by giving notice in writing to the Chief Executive.
- 75.3 On receipt of a notice under Order 75.1 or 75.2, the matter will be included on the agenda for, and discussed at, a meeting of the relevant Board, sub committee or panel. Notices under Order 75.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.
- 75.4 In considering whether to exercise the power in Order 75.2, the Councillor must have regard to any guidance issued by the Secretary of State and any protocol issued by the Council in connection with this power.
- 75.5 In considering whether or not to exercise any of its powers in relation to the matter referred under Order 75.2 the Board 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 Board 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.
- 75.6 When the Scrutiny Board decides to exercise any of its powers in relation to the matters referred to it in Order 75.2, it may refer the matter to a Scrutiny and Development Panel.
- 75.7 Where the Scrutiny Board exercises its power to make a report or recommendation to the Council or the Cabinet on any matter referred to it by a Councillor under Order 75.2 the Board must provide the Councillor with a copy of the report or recommendation (subject to order 80).
- 75.8 Under Order 75.2 a “local government matter” in relation to a Councillor means a matter which relates to the discharge of any function of the authority and affects all or part of the ward for which the Councillor is elected or any person who lives or works in that ward, but excludes:
- (a) any matter relating to a planning decision;
  - (b) any matter relating to a licensing decision under the Licensing Act 2003;
  - (c) any matter relating to an individual or entity where that person has a statutory right to a review or right of appeal (other than a right to complain to the Ombudsman);

- (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda or discussed at the Scrutiny Board meeting;  
and
- (e) any matter specified in an order made by the Secretary of State.

75.9 Provided that a matter is not excluded from being a local government matter, notwithstanding that it would otherwise fall within (b), (c) or (d) above, if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on systematic basis.

#### **SO76. Policy review and development**

76.1 The role of the Scrutiny Board in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Standing Orders. The Scrutiny Board's panels and sub committee shall assist the Board in this role.

76.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Scrutiny Board or Panels may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference. The Scrutiny Board shall consider the recommendations of its panels and committees and make such recommendations, as it thinks fit, to Cabinet.

76.3 The Scrutiny Board and its sub committees and panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **SO77. Reports and Recommendations of the Scrutiny Board**

77.1 This order applies where the Scrutiny Board makes a report or recommendation to the Council, the Cabinet, a Cabinet Lead or a relevant Committee of the Council.

77.2 Scrutiny reports may be prepared by the Board or its sub committees or its panels.

77.3 All reports prepared by panels and sub committees of the Scrutiny Board are forwarded to the Scrutiny Board for consideration.

- 77.4 Only the Scrutiny Board may submit recommendations to the Cabinet or Cabinet Lead, the relevant committee of the Council or partner authorities in accordance with SO78 and 79.
- 77.5 The Scrutiny Board may publish the report or recommendations.
- 77.6 The Council, committee, Cabinet or Cabinet Lead who receive a recommendation of the Scrutiny Board must:
- (a) consider the report or recommendation;
  - (b) respond to the Board indicating what (if any) action the Council , Committee Cabinet Lead or Cabinet propose to take;
  - (c) if the Board has published the report or recommendation to publish the response;
  - (d) if the Board provided a copy of the report or recommendation to a member under Order 75.7, to provide the member with the response; and
  - (e) do all of the above within two months of receiving the report or recommendations or (if later) the notice.
- 77.7 It is the duty of the Council, Committee, Cabinet Lead or Cabinet to which a recommendation has been submitted to comply with the requirements specified in Order 77.6.

#### **SO78. Reports and Recommendations – partner authorities**

- 78.1 This order applies where Scrutiny Board makes a report or recommendation to the 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 (other than the police authority or Chief Constable) and is specified in the Local Area Agreement (LAA).
- 78.2 The Scrutiny Board 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.
- 78.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

#### **SO79. Publication of reports, recommendations and responses**

- 79.1 Where a report or recommendation of the Scrutiny Board or response of the Council, Committee, Cabinet Lead or the Cabinet is published pursuant to Order 76.2 or 80.3(c), and is provided to a member of the Council or partner authority under Order 78, any confidential information must be excluded and

any relevant exempt information may be excluded in line with the provisions of Section 9FG of the Local Government Act 2000.

#### **SO80. Consideration of the Scrutiny reports by the Cabinet**

- 80.1 The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Scrutiny'. The reports of the Scrutiny Board referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Scrutiny Board completing its report/recommendations.
- 80.2 Where the Scrutiny Board prepares a report for consideration by the Cabinet in relation to a matter where the leader or Council has delegated decision making power to another individual Cabinet Lead and the report does not recommend any action other than to note or endorse the report, then the Scrutiny Board may submit a copy of their report to that individual for consideration. At the time of doing so, the Scrutiny Board shall serve a copy on the Chief Executive and the Leader of the Council. If the member with delegated decision making power does not accept the recommendations of the Scrutiny Board then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Scrutiny Board. The Cabinet Lead to whom the decision making power has been delegated will respond to the Scrutiny Board within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Democratic Services Team Leader and he/she will attend a future meeting to respond.
- 80.3 The Scrutiny Board will have access to the Council and Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Board following a consideration of possible policy/service developments, the Board will be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

#### **SO81. Rights of Scrutiny Board members to documents**

- 81.1 In addition to their rights as councillors, members of Scrutiny Board and its sub committees and panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section F of Part 3 of this Constitution.
- 81.2 Nothing in this Order prevents more detailed liaison between the Cabinet or Cabinet Leads and the Scrutiny Board and its sub committees and panels as appropriate depending on the particular matter under consideration.

#### **SO82. Rights of Cabinet Leads**

- 82.1 Subject to the provisions of the Code of Conduct for Councillors and without prejudice to the rights of Cabinet Leads under order 85.4, Cabinet Leads may

attend meetings of the Scrutiny Board and its sub committees and panels 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 Board, sub committee or panel.

### **SO83. Councillors and officers giving account**

83.1 The Scrutiny Board or any of its sub committees and panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Lead, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

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

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

83.2 Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then the Scrutiny Board shall in consultation with the Councillor or officer arrange an alternative date for attendance.

83.3 "Senior Officer" is defined in Order 100 below.

### **SO84. Attendance by others**

84.1 The Scrutiny Board and its sub committees or panels may invite people other than those people referred to in Order 83 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.

84.2 Where the Scrutiny Board, sub committee or panel conducts investigations (e.g. with a view to policy development), the Board may also ask people to attend to give evidence at the Board, sub committee or panel meetings which are to be conducted in accordance with the following principles: -

- (a) that the investigation be conducted fairly and all members of the Board, sub committee or panel be given the opportunity to ask questions of attendees, and to contribute and speak; and
- (b) that those assisting the Board, sub committee or panel by giving evidence be treated with respect and courtesy.

### **SO85. Call-in**

- 85.1 When a decision is made by the Cabinet, an individual Cabinet Lead or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Public Service Plaza normally within two days of being made. All members of the Council will be notified of the decision and given access to the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 85.2 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.
- 85.3 Subject to 85.5 below, a decision may be called-in for scrutiny by the Scrutiny Board if the Chairman of the Scrutiny Board or any five members of the Council submit a notice in writing to the Democratic Services Team Leader within the five day period giving reasons why the decision should be scrutinised.
- 85.4 The Democratic Services Team Leader 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 Scrutiny Board or its sub committees or panels as directed by the Democratic Services Team Leader in consultation with the Chairman of the Scrutiny Board. The relevant Chief Officer and/or Cabinet Lead shall have the right to attend the meeting of the Board, sub committee or panel which considers the matter to explain the reasons for the decision and to respond to comments made at the meeting subject in the case of Cabinet Leads to the provisions of the Code of Conduct for Councillors.
- 85.5 If the matter is referred to a sub committee or panel of the Scrutiny Board, the sub committee or panel shall report its findings and recommendations to the Scrutiny Board.
- 85.6 A decision may not be called-in if the Board 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.
- 81.7 Where a decision has been called-in by five members of the Council and none of those Councillors attend, the Board, its sub committees or Scrutiny and Policy Development Panels may at its discretion determine not to scrutinise the decision.
- 85.8 If, having considered the decision and where appropriate the findings and recommendations of a sub committee or panel of the Scrutiny Board (which consideration must be completed before the next scheduled meeting of the Cabinet) the Scrutiny Board 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 the Scrutiny Board consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.

- 85.9 If the decision is referred back to the decision maker they shall then reconsider whether may amend the decision or not, before adopting a final decision which will come into force immediately.
- 85.10 If following an objection to the decision, the Scrutiny Board does not either refer the matter back to the decision making person or body or refer the matter to full Council or determines under 85.7 above not to scrutinise the matter, the decision shall take effect on the date of the Scrutiny meeting.
- 85.11 If the matter was referred to full Council and the 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 Council does object, the Council has no locus to make decisions in respect of a Cabinet decision unless the Cabinet decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the 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.
- 85.12 If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

#### **SO86. Call-in and Urgency**

- 86.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet 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 Havant Borough. 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 Head of the Paid Service and/or the Monitoring Officer and/or the Chief Finance Officer), the decision is an urgent one, and therefore not subject to call-in.
- 86.2 Decisions taken as a matter of urgency must be reported to the next available meeting of the Cabinet, together with the reasons for urgency.
- 86.3 The operation of the provisions relating to call-in and urgency shall be monitored, and a report submitted to Council with proposals for review if necessary.
- 86.4 Where a decision is exempted from call-in, it will become effective immediately.



### **SO87. The party whip**

- 87.1 When considering any matter in respect of which a member of the Scrutiny Board is subject to a party whip the Councillor must declare the existence of the whip, and the nature of it before the commencement of the Board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **SO88. Procedure at meetings**

- 88.1 The procedure, order and content of any meeting of the Scrutiny Board may take the form set out in 88.2 below.
- 88.2 The Scrutiny Board and Scrutiny and Policy Development Panels shall consider the following business:
- (a) minutes of the last meeting;
  - (b) declarations of interest (including whipping declarations);
  - (c) consideration of any matter referred to the Board for a decision in relation to call in of a decision;
  - (d) responses of the Cabinet to reports of the Scrutiny Board; and
  - (e) the business otherwise set out on the agenda for the meeting.
- 88.3 The order of business for meetings shall be determined by the Democratic Services Officer in consultation with the Chairman. Items may be withdrawn from the agenda at meetings with the consent of the meeting.
- 88.4 Where the Scrutiny Board, its sub committees and panels conduct investigations (e.g. with a view to policy development), the Board may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles: -
- (a) that the investigation be conducted fairly and all members of the Board be given the opportunity to ask questions of attendees, and to contribute and speak; and
  - (b) that those assisting the Board by giving evidence be treated with respect and courtesy.

### **SO89. Submission of Motions and Amendments**

- 89.1 The report or matter submitted for discussion by the Board may be debated prior to a motion being proposed and seconded

- 89.2 Motions and amendments must relate to items on the agenda or accepted by the meeting as urgent business
- 89.3 Motions and amendments must be moved and seconded before they may be debated
- 89.4 When a motion has been moved and seconded no other motion shall be moved except a motion for which no notice is necessary under Standing Order19
- 89.5 Only one amendment may be moved and discussed at a time, and no further amendment may be moved until the amendment under discussion has been dealt with.
- 89.6 Any amendment to the motion can be moved provided it is (in the opinion of the Chairman) relevant to the matter under discussion. The amendment can be a direct negative of the motion.
- 89.7 The mover with the agreement of the seconder may withdraw or alter an amendment or motion at any time
- 89.8 Once duly moved, an amendment shall be debated along with the original motion.
- 89.9 An amendment must be voted on before the motion
- 89.10 If an amendment is rejected different amendments may be proposed on the original motion.
- 89.11 If an amendment is lost, other amendments may be moved to the original motion
- 89.12 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion on which any further amendment may be moved.
- 89.13 If an amendment is lost and there are no further amendments, a vote will be taken on the original motion or the substantive motion



# **Section J**

## **Committee and Sub Committee Standing Orders**



## **CONTENTS**

[SO 90.](#)      **Order of Business**

[SO 91.](#)      **Submission of Motions and Amendments**



## **SO90. Order of Business**

- 90.1 The order of business for meetings shall be determined by the Democratic Services Officer in consultation with the appropriate Chairman. Items may be withdrawn from the agenda at meetings with the consent of the meeting.

## **SO91. Submission of Motions and Amendments**

- 91.1 The report or matter submitted for discussion by the Committee may be debated prior to a motion being proposed and seconded
- 91.2 Motions and amendments must relate to items on the agenda or accepted by the meeting as urgent business
- 91.3 Motions and amendments must be moved and seconded before they may be debated
- 91.4 When a motion has been moved and seconded no other motion shall be moved except a motion for which no notice is necessary under Standing Order19
- 91.5 Only one amendment may be moved and discussed at a time, and no further amendment may be moved until the amendment under discussion has been dealt with.
- 91.6 Any amendment to the motion can be moved provided it is (in the opinion of the Chairman) relevant to the matter under discussion. The amendment can be a direct negative of the motion.
- 91.7 The mover with the agreement of the seconder may withdraw or alter an amendment or motion at any time
- 91.8 Once duly moved, an amendment shall be debated along with the original motion.
- 91.9 An amendment must be voted on before the motion
- 91.10 If an amendment is rejected different amendments may be proposed on the original motion.
- 91.11 If an amendment is lost, other amendments may be moved to the original motion
- 91.12 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion on which any further amendment may be moved.
- 91.13 If an amendment is lost and there are no further amendments, a vote will be taken on the original motion or the substantive motion



91.14 If a motion is lost, other motions may be moved

# **Section K**

## **Officer Employment Standing Orders**



## **CONTENTS**

- [SO 92.](#) Recruitment and Appointment
- [SO 93.](#) Recruitment of Head of Paid Service and Chief Officers
- [SO 94.](#) Appointment of Head of Paid Service
- [SO 95.](#) Appointment of Chief Officers and Designated Deputy Chief Officers
- [SO 96.](#) Appointment of Other Deputy Chief Officers
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- [Annex 1.](#) Appointment of Head of Paid Service, Chief Officers and Deputy Chief Officers
- [Annex 2.](#) Dismissal of Head of Paid Service, Chief Officers and Deputy Chief Officers



## **SO92. Recruitment and Appointment**

### 92.1 Declarations

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or senior officer of the Council; or of the partner of such persons.
- (b) No candidate so related to a Councillor or senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

### 92.2 Seeking support for appointment

- (a) Subject to paragraph (c), the Council will disqualify any applicant who directly or indirectly canvasses the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) Subject to paragraph (c), no Councillor will canvass support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

## **SO93. Recruitment of Head of Paid Services and Chief Officers**

93.1 Where the Council proposes to appoint the Head of Paid Service or a Chief Officer (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council or its Joint Human Resources Committee will establish a committee [or sub-committee] to act as the appointment panel.

93.2 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.

- 93.3 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.
- 93.4 Where the Council proposes to appoint the Head of the Paid Service or a Chief Officer (other than on an acting basis) exclusively from amongst their existing officers the Council or its Joint Human Resources Committee will establish a committee [or sub-committee] which will make arrangements in connection with the appointment.

#### **SO94. Appointment of Head of Paid Service**

- 94.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee [or sub-committee] of the Council. That committee [or sub-committee] must be politically balanced and include at least one Cabinet Lead.
- 94.2 The full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 to these Orders has been completed.

#### **SO95. Appointment of Chief Officers and Designated Deputy Chief Officers**

- 95.1 A committee [or sub-committee] of the Council will appoint Chief Officers and such Deputy Chief Officers as the Council may from time to time designate. That committee [or sub-committee] must be politically balanced and include at least one Cabinet Lead.
- 95.2 An offer of employment as a Chief Officer or designated Deputy Chief Officer shall only be made where the procedure set out in Annex 1 to these Orders has been completed.

#### **SO96. Appointment of Other Deputy Chief Officers**

- 96.1 In relation to Deputy Chief Officer posts other than those designated under 93.1 above the Joint Human Resources Committee will determine whether appointments to such posts should be made by an all officer panel or a mixed panel of officers and Councillors.
- 96.2 An offer of employment as a Deputy Chief Officer shall only be made where the procedure set out in Annex 1 to these Orders has been completed.

#### **SO97. Other Appointments**

- 97.1 Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of the Paid Service or an officer nominated by him/her and may not be made by Councillors.
- 97.2 Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **SO98. Disciplinary Action**

- 98.1 No disciplinary action, except as described in 98.2 below may be taken in respect of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer, except following consideration and determination by a panel appointed by the Joint Human Resources Committee under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal or disciplinary action concerning the Chief Finance Officer, the Head of Paid Service or the Monitoring Officer. The panel shall be constituted in accordance with Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 as amended.
- 98.2 The action mentioned in 98.1 above is the suspension of the officer on full pay for the purpose of investigating the alleged misconduct; any such suspension must terminate no later than the expiry of two months beginning on the day on which the suspension takes effect, unless the panel referred to in 98.1 above directs that it may continue beyond that period.
- 98.3 Councillors will not be involved in the disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to a Panel, which may include Councillors, in respect of disciplinary action.

## **SO99. Dismissal**

- 99.1 Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to a Panel, which may include Councillors in respect of dismissals.
- 99.2 Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of or in relation to, the dismissal of the Head of Paid Service, a Chief Officer or a Deputy Chief Officer, that committee or sub-committee must include at least one Cabinet Lead.
- 99.3 Where a committee or sub-committee is discharging the function in relation to the dismissal of the Head of Paid Service, the full Council must approve any recommendation of dismissal before notice of dismissal is given.
- 99.4 Notice of dismissal of the Head of Paid Service, a Chief Officer or a Deputy Chief Officer must not be given until the procedure set out in Annex 2 has been completed.



## **SO100. Definitions**

- "Chief Officers" include "statutory Chief Officers" and "non-statutory Chief Officers" as defined in section 2 of the Local Government and Housing Act 1989 ("the 1989 Act").
- "Deputy Chief Officer" has the same meaning as in section 2 of the 1989 Act.
- "Senior Officer" means an officer on spinal column point 32 or above.

**APPOINTMENT OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

1. This procedure applies to the appointment of the Head of Paid Service, Chief Officers and Deputy Chief Officers (“relevant officers”) and has been incorporated into these Orders, as requested by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, ‘appointer’ means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the Council.
3. An offer of an appointment as a relevant officer must not be made by the appointer until:
  - (a) the appointer has notified the Proper Officer of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer considers are relevant to the appointment;
  - (b) the Proper Officer has notified every Cabinet Lead of:
    - (i) the name of the person to whom the appointer wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointer has notified to the proper officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the proper officer; and
  - (c) either:
    - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointer that neither s/he nor any Cabinet Lead has any objection to the making of the offer;
    - (ii) the proper officer has notified the appointer that no objection was received by him/her within that period from the Leader of the Council: or
    - (iii) the appointer is satisfied that any objection received from the Leader of the Council within the period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Organisational Development.

**DISMISSAL OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

1. This procedure applies to the dismissal of the Head of Paid Service, Chief Officers and Deputy Chief Officers (“relevant officers”) and has been incorporated into these Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, “dismissor” means, in relation to the dismissal of a relevant officer, the authority or, a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
3. Notice of dismissal of a relevant officer must not be given by the dismissor until:
  - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every Cabinet Lead of:
    - (i) the name of person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the proper officer; and
  - (c) either:
    - (i) the Leader of the Council has, within the period specified in the notice under sub paragraph (b) (iii), notified the dismissor that nether s/he not any other Cabinet Lead has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the Leader of the Council; or
    - (iii) the dismissor is satisfied that any objection received from the Leader of the Council with that period is not material or is not well-founded.
4. The “proper officer” for the purpose of paragraph 3 will be the Head of Organisational Development.

# **Section L**

## **Appendices to Standing Orders**



## **CONTENTS**

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# **APPENDIX 1**

## **QUESTIONS BY THE PUBLIC SCHEME**

### **General**

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council.

### **Order of Questions**

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.

### **Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Democratic Services Team Leader no later than midday on the Thursday of the week preceding the day of publication of the Council Summons. Each question must give the name and address of the questioner and must name the Cabinet Lead to whom it is to be put.

### **Number of Questions**

At any one meeting no person may submit more than three questions and no more than three such questions may be asked on behalf of one organisation.

### **Scope of Questions**

The Democratic Services Team Leader may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which does not affect the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or



- requires the disclosure of confidential or exempt information.

### **Record of Questions**

The Democratic Services Team Leader will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members by way of the Summons for the Council meeting and will be made available to the public attending the meeting.

### **Asking the Question at the Meeting**

The Mayor will invite the questioner to formally put the question (which will be taken as read) to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question formally on their behalf. The Mayor may formally ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

### **Supplemental Question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds that:.

- is not about a matter for which the local authority has a responsibility or which does not affect the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

## **Written Answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

## **Reference of Question to the Executive or a Committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or the Scrutiny Board or sub committee or a panel of the Scrutiny Board. Once seconded, such a motion will be voted on without discussion.

## **Time Allowed**

The total amount of time allocated for the asking of questions at any one meeting shall not exceed thirty minutes.

Questions from the public will not be allowed at the Annual Council Meeting.



## APPENDIX 2

### HAVANT BOROUGH COUNCIL

#### Petitions Scheme

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:

**The Democratic Services Team Leader  
Havant Borough Council  
Civic Offices  
Civic Centre Road  
HAVANT  
PO9 2AX**

**(Telephone enquiries to 023 9244 6234)**

Petitions can also be presented to a meeting of the council. These meetings take place approximately on an 8 weekly basis. Dates and times are published on the Council's web site].

If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact the Democratic Services Team Leader at least 10 working days before the meeting and they will talk you through the process.

If your petition has received 1500 signatures or more it will also be scheduled for a council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the council.

What are the guidelines for submitting a petition?

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, or is submitted in response to a consultation exercise undertaken by the Council other procedures apply. Further information on all these procedures and how you can express your views is available.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by one of the Council's Scrutiny Board.
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

Scrutiny Board is a committee of councillors who are responsible for scrutinising the work of the council – in other words, they have the power to hold the council's decision makers to account.

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some **examples**:

### **Petition subject and appropriate steps**

#### Alcohol related crime and disorder

If your petition is about crime or disorder linked to alcohol consumption, the Council may, for example in appropriate circumstances, consider the case for imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.

#### Anti-social behaviour (ASB)

As the elected representatives of your local area and as licensing authority, the council has a significant role to play in tackling anti-social behaviour.

When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the range of powers and mechanisms we have to intervene as part of our role within the ASB legislation.

### Other Issues

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible on the Councils web site.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

### Full council debates

If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting (see below).

This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes.

The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

### Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the Scrutiny Board. You should be aware that the Board may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition– for instance if the named officer has changed jobs. The Board may also decide to call the relevant councillor to attend the meeting. Board members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the Board by contacting the Democratic Services Team Leader up to three working days before the meeting.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Scrutiny Board review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The Scrutiny Board will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Board determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council or Cabinet and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website





## APPENDIX 3

### DEPUTATIONS AT THE DEVELOPMENT MANAGEMENT COMMITTEE<sup>2</sup>

#### A. General Notes

1. The Council gives the following an opportunity to address members of the Development Management Committee (“the Committee”) at the meeting before members make their decision:-
  - (a) Objectors
  - (b) Supporters
  - (c) County Councillors
  - (d) Ward Councillors who are not members of the Committee (“Non Members”).
2. A deputation can only appear in connection with an item on the Agenda for a particular meeting.
3. The purpose of the deputations procedure is to allow deputees to address the Committee orally and to answer questions from the members of the Committee. Deputees will not therefore be able to put any documents or written material to the Committee at the meeting as there is no practical opportunity for members or officers to study this without delaying and disrupting the conduct of the meeting.
4. If there has been a deputation within six months of any previous appearance on the same or similar topic (irrespective of whether or not the member(s) of the deputation might be different) then no such new deputation will be received until that time limit has expired. However, "same or similar topic" does not apply to applications for planning permission considered by the Committee.

#### B. Registering Your Intention to Speak

1. Notice of the wish to be received as a deputation must be given in writing or by email to the Democratic Services Team not later than 48 hours before the start of the meeting (other than when the meeting is on a Monday, when notice has to be in by the previous Thursday). Notices received after the deadline will not be accepted.

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<sup>2</sup> These notes do not apply to cases where the Development Management Committee considers objections to the making of a Tree Preservation Order.

2. In all cases, the notice must briefly specify the subject on which the deputation wishes to speak and whether the deputation is in support or against the matter to be discussed.
3. Acknowledgement of the request for a deputation will be made whenever practicable, but given the timescale at B1 above, this may not always be possible. You will be advised as soon as practicable whether or not the request to be received as a deputation has been agreed.
4. The address and telephone number of a depute will not be given to other deputees unless the Council has been given written permission to pass on these details.

C. About Deputations Generally

1. A deputation can consist of one but not more than two persons.
2. It is for the members of a deputation to decide who will address the meeting. Where it is two persons, both may speak if they wish.

D. Time limits

1. Subject to D4 below a total of five minutes per matter/application will be allocated to hear the views of all objectors, five minutes for County Councillors and five minutes for supporters.
2. If there is more than one deputation wishing to appear on a specific matter, the total amount of time allowed for speaking remains five minutes. This means (*for example only*) that if there is one deputation in favour of a matter, this one may speak for five minutes, but if there are two wishing to speak against, those two would have to agree between themselves as to how they will divide up the five minutes in total that is available.
3. Clearly a point could be reached where there are a number of people wishing to make a deputation for or against a particular matter. Given that only five minutes is available to either side, the various deputations would wish to consider appointing no more than two spokespersons in order to make maximum use of the overall time available. As notification of a request to appear as a deputation can be left until 48 hours before a meeting (see A4 above), in all probability, the "pooling of resources" will have to be discussed and agreed on the day of the Committee.
4. In exceptional cases, where all the following criteria are met the time allocated for deputations will be extended:
  - (a) the application will involve more than 50 dwellings; 5,000 m<sup>2</sup> or more of employment floorspace; 2,500 sq m or more of retail floorspace; or 1,000 m<sup>2</sup> or more of leisure floorspace.
  - (b) at least three requests have been received to make a deputation against

the recommendation set out in the officer's report;

- (c) the Nominated Chairman agrees to an extension of time; and
- (d) the Head of Planning, or in their absence a Team Leader agrees to an extension of time.

The additional time to be allocated to be agreed between the Nominated Chairman and the Democratic Services Team prior to the meeting.

5. Non Members who wish to address the Committee will be limited to 10 minutes each. In exceptional circumstances, the Nominated Chairman of the Committee may extend this time limit provided that the request:
  - (a) is received by the Nominated Chairman of the Committee and the Democratic Services Team 24 hours before the meeting commences;
  - (b) gives reasons for an extension of time; and
  - (c) specifies the amount of extra time required.

E. Procedure

1. Ordinarily, all meetings commence at 5 pm. Meetings normally take place in the Council Chamber or the Conference Rooms ("the Meeting Room") at the Public Service Plaza, Civic Centre Road, Havant.
2. The Committee may, if it wishes, vary the order of business as published in the Agenda.
3. Accordingly, whilst every effort is made to be as helpful as possible, it is very difficult to give a precise indication to the members of a deputation as to the time when the matter in which they have an interest will be reached. The Democratic Services Officer concerned (contact details are set out below) may be contacted on the day of the meeting in an effort to clarify the situation, but otherwise the members of a deputation are asked to be in attendance in the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant at least fifteen minutes before the normal starting time (normally 4.45 pm).

*A warning note* - if the subject matter of a deputation has been debated and decided upon by the time a deputation arrives, it will not then be possible for the deputation to appear before the Committee.

4. If time permits prior to commencement of the meeting the depute will be shown from where speeches will be made in the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant and where to sit prior to and after delivery of the deputation.
5. Deputations are heard with the subject matter to which they relate. After all deputations for a subject matter have been heard, the Committee will make and announce their decision.

6. In cases where it is known beforehand that the views of the deputation accord with what the officers might be recommending and there are no deputations wishing to appear to put the contrary view, the Chairman will normally ask the members of the Committee if they oppose the officers' recommendation. If the members indicate that they will not speak against the officers' recommendation, the Chairman will ask the deputee if he or she still wishes to address the Committee. Please note that it is open to the Chairman concerned to decide to deal with the matter in any other way.
7. When the particular item is reached on which there may be a deputation or deputations, the order of business will normally be as follows:-
- |   |  |
|---|--|
| (a) There will be a presentation by the Officer(s) concerned (if required), including questions by the Committee Members of the Officers. | No Time Limit  |
| (b) The deputation(s) opposing the matter to be discussed will be heard.  | A total of 5 minutes is allocated for those objecting                                  |
| (c) Members to ask questions of the deputee opposing the matter   | No Time Limit  |
| (d) The deputation supporting the matter to be discussed will be heard  | A total of 5 minutes is allocated for those supporting                                 |
| (e) Members to ask questions of the deputee supporting the matter   | No Time Limit  |
| (f) County Councillors  | A total of 5 minutes is allocated for County Councillors                               |
| (g) Members to ask questions of the County Councillors  | No Time Limit  |
| (h) Members of the Committee, who have formed a conclusive view on any matter included in the agenda                                      | A total of 5 minutes is allocated for those Members, who have formed a conclusive view |
| (i) Members to ask questions of the members who have made a deputation under (h) above  | No Time Limit  |
| (j) Elected members of the Council who are not members of the Committee   | 10 minutes each  |

who have indicated in advance of the meeting that they wish to address the Committee

- (k) Members to ask questions of the members who have made a deputation under (j) above No Time Limit
- (l) The matter will be debated, including any questions by the members of the Committee of the Officers, and a decision made. No Time Limit

- 8. The exception to 7 above would be where the matter is one where a resolution excluding the public during the debate has been passed. In such instances, only 7(b) to 7(k) would take place in public, with officer's presentation and any debate taking place later in the meeting without the public being present.
- 9. The members of a deputation may, if they wish, remain in the public gallery until that matter is dealt with (provided it is not a confidential matter when both the press and the public are excluded).

#### **STAFF TO CONTACT ON DEPUTATIONS**

- (1) Development Management Committee Jack Caine (023) 92446230 [jack.caine@havant.gov.uk](mailto:jack.caine@havant.gov.uk)

Or

[DemocraticServicesTeam22@havant.gov.uk](mailto:DemocraticServicesTeam22@havant.gov.uk)

Address: Democratic Services Team  
Havant Borough Council  
Civic Offices  
Civic Centre Road  
Havant, Hants P09 2AX



## APPENDIX 4

### DEPUTATIONS AT THE LICENSING COMMITTEE

#### A. General Notes

1. The Council gives the following an opportunity to address members of the Licensing Committee (the Committee”) at the meeting before members make their decision:-
  - (a) Objectors
  - (b) Supporters
  - (c) County Councillors
  - (d) Ward Councillors who are not members of the Committee.
2. A deputation can only appear in connection with an item on the Agenda for a particular meeting.
3. The purpose of the deputations procedure is to allow deputees to address the Committee orally and to answer questions from the members of the Committee. Deputees will not therefore be able to put any documents or written material to the Committee at the meeting as there is no practical opportunity for members or officers to study this without delaying and disrupting the conduct of the meeting.
4. If there has been a deputation within six months of any previous appearance on the same or similar topic (irrespective of whether or not the member(s) of the deputation might be different) then no such new deputation will be received until that time limit has expired.

#### B Registering Your Intention to Speak

1. Notice of the wish to be received as a deputation must be given in writing or by email to the Democratic Services Team (contact details are given at the end of these notes) not less than 48 hours before the start of the meeting (other than when the meeting is on a Monday, when notice has to be in the previous Thursday). Notices received after the deadline will not be accepted.
2. In all cases, the notice must briefly specify the subject on which the deputation wishes to speak and whether the deputation is in support or against the matter to be discussed.
3. Acknowledgement of the request for a deputation will be made whenever practicable, but given the timescale at B1 above, this may not always be possible. You will be advised as soon as practicable whether or not the request to be received as a deputation has been agreed.



4. The address and telephone number of a depute will not be given to other deputees unless the Council has been given written permission to pass on these details.

C. About Deputations Generally

1. A deputation can consist of one but not more than two persons.
2. It is for the members of a deputation to decide who will address the meeting. Where it is two persons, both may speak if they wish.

D Time limits

1. Subject to D4 below a total of five minutes per matter/application will be allocated to hear the views of all objectors, five minutes for County Councillors and five minutes for supporters.
2. If there is more than one deputation wishing to appear on a specific matter, the total amount of time allowed for speaking remains five minutes. This means (*for example only*) that if there is one deputation in favour of a matter, this one may speak for five minutes, but if there are two wishing to speak against, those two would have to agree between themselves as to how they will divide up the five minutes in total that is available.
3. Clearly a point could be reached where there are a number of people wishing to make a deputation for or against a particular matter. Given that only five minutes is available to either side, the various deputations would wish to consider appointing no more than two spokespersons in order to make maximum use of the overall time available. As notification of a request to appear as a deputation can be left until 48 hours before a meeting (see A4 above), in all probability, the "pooling of resources" will have to be discussed and agreed on the day of the Committee.
4. There is no time limit for Councillors wishing to speak who are not members of the Committee.

E. Procedure

1. Ordinarily, all meetings commence at 5 pm. Meetings normally take place in the Hollybank Room ("the Meeting Room") at the Public Service Plaza, Civic Centre Road, Havant.
2. The Committee may, if it wishes, vary the order of business as published in the Agenda.
3. Accordingly, whilst every effort is made to be as helpful as possible, it is very difficult to give a precise indication to the members of a deputation as to the time when the matter in which they have an interest will be reached. The Democratic Services Officer concerned (contact details are set out below) may be contacted on the day of the meeting in an effort to clarify the situation, but otherwise the members of a deputation are asked to be in attendance in

the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant at least fifteen minutes before the normal starting time (normally 4.45 pm).

*A warning note* - if the subject matter of a deputation has been debated and decided upon by the time a deputation arrives, it will not then be possible for the deputation to appear before the Committee.

6. If time permits prior to commencement of the meeting the depute will be shown from where speeches will be made in the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant and where to sit prior to and after delivery of the deputation.
7. Deputations are heard with the subject matter to which they relate. After all deputations for a subject matter have been heard, the Committee will make and announce their decision.
8. In cases where it is known beforehand that the views of the deputation accord with what the officers might be recommending and there are no deputations wishing to appear to put the contrary view, the Chairman will normally ask the members of the Committee if they oppose the officers' recommendation. If the members indicate that they will not speak against the officers' recommendation, the Chairman will ask the depute if he or she still wishes to address the Committee. Please note that it is open to the Chairman concerned to decide to deal with the matter in any other way.
9. When the particular item is reached on which there may be a deputation or deputations, the order of business will normally be as follows:-
  - (a) There will be a presentation by the Officer(s) concerned (if required), including questions by the Committee Members of the Officers. No Time Limit
  - (b) The deputation(s) opposing the matter to be discussed will be heard. A total of 5 minutes is allocated for those objecting
  - (c) Members to ask questions of the depute opposing the matter No Time Limit
  - (d) The deputation supporting the matter to be discussed will be heard A total of 5 minutes is allocated for those supporting
  - (e) Members to ask questions of the depute supporting the matter No Time Limit
  - (f) County Councillors A total of 5 minutes is allocated for County Councillors
  - (g) Members to ask questions of the No Time Limit

## County Councillors

- |     |  |  |
|-----|--|--|
| (h) | Members of the Committee, who have formed a conclusive view on any matter included in the agenda   | A total of 5 minutes is allocated for those Members, who have formed a conclusive view |
| (i) | Members to ask questions of the members who have made a deputation under (h) above   | No Time Limit  |
| (j) | Elected members of the Council who are not members of the Committee who have indicated in advance of the meeting that they wish to address the Committee | No time limit  |
| (k) | Members to ask questions of the members who have made a deputation under (j) above   | No Time Limit  |
| (l) | The matter will be debated, including any questions by the members of the Committee of the Officers, and a decision made.                                |  |
10. The exception to 9 above would be where the matter is one where a resolution excluding the public during the debate has been passed. In such instances, only 9(b) to 9(k) would take place in public, with officer's presentation and any debate taking place later in the meeting without the public being present.
11. The members of a deputation may, if they wish, remain in the public gallery until that matter is dealt with (provided it is not a confidential matter when both the press and the public are excluded).

### **STAFF TO CONTACT ON DEPUTATIONS**

(1) Licensing Committee      Mark Gregory      (023) 92446232  
[mark.gregory@havant.gov.uk](mailto:mark.gregory@havant.gov.uk)

Or

[DemocraticServicesTeam22@havant.gov.uk](mailto:DemocraticServicesTeam22@havant.gov.uk)

Address:      Democratic Services Team Havant Borough Council Public Service  
Plaza Civic Centre Road Havant, Hants P09 2AX

# APPENDIX 5

## DEPUTATIONS AT CABINET

### A. General Notes

1. The Council gives the following an opportunity to address members of the Cabinet on any matter which is before a meeting for decision, before members of the Cabinet take that decision:
  - (a) Objectors
  - (b) Supporters
  - (c) County Councillors
  - (d) Ward Councillors who are not members of the Cabinet.
2. A deputation can only appear in connection with an item on the Agenda for a particular meeting.
3. The purpose of the deputations procedure is to allow deputees to address the Cabinet orally and to answer questions from the members of the Cabinet. Deputees will not therefore be able to put any documents or written material to the Cabinet at the meeting as there is no practical opportunity for members or officers to study this without delaying and disrupting the conduct of the meeting.
4. If there has been a deputation within six months of any previous appearance on the same or similar topic (irrespective of whether or not the member(s) of the deputation might be different) then no such new deputation will be received until that time limit has expired.

### B Registering Your Intention to Speak

1. Notice of the wish to be received as a deputation must be given in writing or by email to the Democratic Services Team (contact details are given at the end of these notes) not less than 48 hours before the start of the meeting (other than when the meeting is on a Monday, when notice has to be in the previous Thursday). Notices received after the deadline will not be accepted
2. In all cases, the notice must briefly specify the subject on which the deputation wishes to speak and whether the deputation is in support or against the proposal to be discussed.
3. Acknowledgement of the request for a deputation will be made whenever practicable, but given the timescale at B1 above, this may not always be possible. You will be advised as soon as practicable whether or not the request to be received as a deputation has been agreed.

4. The address and telephone number of a depute will not be given to other deputees unless the Council has been given written permission to pass on these details.

C. About Deputations Generally

1. A deputation can consist of one but not more than two persons.
2. It is for the members of a deputation to decide who will address the meeting. Where it is two persons, both may speak if they wish.

D Time limits

1. Subject to D4 below a total of five minutes per matter/application will be allocated to hear the views of all objectors, five minutes for County Councillors and five minutes for supporters.
2. If there is more than one deputation wishing to appear on a specific matter, the total amount of time allowed for speaking remains five minutes. This means (*for example only*) that if there is one deputation in favour of a matter, this one may speak for five minutes, but if there are two wishing to speak against, those two would have to agree between themselves as to how they will divide up the five minutes in total that is available.
3. Clearly a point could be reached where there are a number of people wishing to make a deputation for or against a particular matter. Given that only five minutes is available to either side, the various deputations would wish to consider appointing no more than two spokespersons in order to make maximum use of the overall time available. As notification of a request to appear as a deputation can be left until 48 hours before a meeting (see A4 above), in all probability, the "pooling of resources" will have to be discussed and agreed on the day of the Cabinet.
4. There is no time limit for Councillors wishing to speak who are not members of the Cabinet.

E. Procedure

1. Ordinarily, all meetings commence at 2 pm. Meetings normally take place in the Hollybank Room ("the Meeting Room") at the Public Service Plaza, Civic Centre Road, Havant.
2. The Cabinet may, if it wishes, vary the order of business as published in the Agenda.
3. Accordingly, whilst every effort is made to be as helpful as possible, it is very difficult to give a precise indication to the members of a deputation as to the time when the matter in which they have an interest will be reached. The Democratic Services Officer concerned (contact details are set out below) may be contacted on the day of the meeting in an effort to clarify the situation, but otherwise the members of a deputation are asked to be in attendance in

the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant at least fifteen minutes before the normal starting time (normally 1.45 pm).

*A warning note* - if the subject matter of a deputation has been debated and decided upon by the time a deputation arrives, it will not then be possible for the deputation to appear before the Cabinet.

4. If time permits prior to commencement of the meeting the deputees will be shown from where speeches will be made in the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant and where to sit prior to and after delivery of the deputation.
5. Deputations are heard with the subject matter to which they relate. After all deputations for a subject matter have been heard, the Cabinet will make and announce their decision.
6. In cases where it is known beforehand that the views of the deputation accord with what the officers might be recommending and there are no deputations wishing to appear to put the contrary view, the Chairman will normally ask the members of the Cabinet if they oppose the officers' recommendation. If the members indicate that they will not speak against the officers' recommendation, the Chairman will ask the deputees if he or she still wishes to address the Cabinet. Please note that it is open to the Chairman concerned to decide to deal with the matter in any other way.
7. When the particular item is reached on which there may be a deputation or deputations, the order of business will normally be as follows:-
  - (a) There will be a presentation by the Officer(s) concerned (if required), including questions by the Cabinet Leads of the Officers. No Time Limit
  - (b) The deputation(s) opposing the matter to be discussed will be heard. A total of 5 minutes is allocated for those objecting
  - (c) Members to ask questions of the deputees opposing the proposal No Time Limit
  - (d) The deputation supporting the matter to be discussed will be heard A total of 5 minutes is allocated for those supporting
  - (e) Members to ask questions of the deputees supporting the proposal No Time Limit
  - (f) County Councillors A total of 5 minutes is allocated for County Councillors
  - (g) Members to ask questions of the No Time Limit

## County Councillors

- |     |  |  |
|-----|--|--|
| (h) | Members of the Cabinet, who have formed a conclusive view on any matter included in the agenda   | A total of 5 minutes is allocated for those Members, who have formed a conclusive view |
| (i) | Members to ask questions of the members who have made a deputation under (h) above   | No Time Limit  |
| (j) | Elected members of the Council who are not members of the Cabinet who have indicated in advance of the meeting that they wish to address the Cabinet | No time limit  |
| (k) | Members to ask questions of the members who have made a deputation under (j) above   | No Time Limit  |
| (l) | The matter will be debated, including any questions by the members of the Cabinet of the Officers, and a decision made.                              |  |
8. The exception to 7 above would be where the matter is one where a resolution excluding the public during the debate has been passed. In such instances, only 7(b) to 7(k) would take place in public, with officer's presentation and any debate taking place later in the meeting without the public being present.
9. The members of a deputation may, if they wish, remain in the public gallery until that matter is dealt with (provided it is not a confidential matter when both the press and the public are excluded).

### **STAFF TO CONTACT ON DEPUTATIONS**

(1) Cabinet Penny Milne (023) 9244 6234  
[penny.milne@havant.gov.uk](mailto:penny.milne@havant.gov.uk)

Or

[DemocraticServicesTeam22@havant.gov.uk](mailto:DemocraticServicesTeam22@havant.gov.uk)

Address: Democratic Services Team Havant Borough Council Public Service  
Plaza Civic Centre Road Havant, Hants P09 2AX

## APPENDIX 6

### DEPUTATIONS AT COMMITTEES OF THE COUNCIL

#### A. General Notes

1. The Council gives the following an opportunity to address members of any Committee of the Council at the meeting before members make their decision:-

- (a) Objectors
- (b) Supporters
- (c) County Councillors
- (d) Ward Councillors who are not members of the Committee.

For the purposes of these notes a Committee of the Council is one of the following meetings:

- (a) Scrutiny Board
- (b) Joint Human Resources Committee
- (c) Governance and Audit Committee

2. A deputation can only appear in connection with an item on the Agenda for a particular meeting.
3. The purpose of the deputations procedure is to allow deputees to address the Committee orally. Deputees will not therefore be able to put any documents or written material to the Committee at the meeting as there is no practical opportunity for members or officers to study this without delaying and disrupting the conduct of the meeting.
4. If there has been a deputation within six months of any previous appearance on the same or similar topic (irrespective of whether or not the member(s) of the deputation might be different) then no such new deputation will be received until that time limit has expired.

#### B. Registering Your Intention to Speak

1. Notice of the wish to be received as a deputation must be given in writing or by email to the Democratic Services Team not later than 48 hours before the start of the meeting (other than when the meeting is on a Monday, when notice has to be in by the previous Thursday). Notices received after the deadline will not be accepted.
2. In all cases, the notice must briefly specify the subject on which the deputation wishes to speak and whether the deputation is in support or against the matter to be discussed.
3. Acknowledgement of the request for a deputation will be made whenever



practicable, but given the timescale at B1 above, this may not always be possible. You will be advised as soon as practicable whether or not the request to be received as a deputation has been agreed.

4. The address and telephone number of a depute will not be given to other deputees unless the Council has been given written permission to pass on these details.

C. About Deputations Generally

1. A deputation can consist of one but not more than two persons.
2. It is for the members of a deputation to decide who will address the meeting. Where it is two persons, both may speak if they wish.

D Time limits

1. Subject to D4 below a total of five minutes per matter/application will be allocated to hear the views of all objectors, five minutes for County Councillors and five minutes for supporters.
2. If there is more than one deputation wishing to appear on a specific matter, the total amount of time allowed for speaking remains five minutes. This means (*for example only*) that if there is one deputation in favour of a matter, this one may speak for five minutes, but if there are two wishing to speak against, those two would have to agree between themselves as to how they will divide up the five minutes in total that is available.
3. Clearly a point could be reached where there are a number of people wishing to make a deputation for or against a particular matter. Given that only five minutes is available to either side, the various deputations would wish to consider appointing no more than two spokespersons in order to make maximum use of the overall time available. As notification of a request to appear as a deputation can be left until 48 hours before a meeting (see A4 above), in all probability, the "pooling of resources" will have to be discussed and agreed on the day of the Committee.
4. There is no time limit for Councillors wishing to speak who are not members of the Committee.

E. Procedure

1. Ordinarily, all meetings except Cabinet meetings commence at 5 pm. Cabinet meetings start at 2pm. Meetings normally take place in the Hollybank Room ("the Meeting Room") at the Public Service Plaza, Civic Centre Road, Havant.
2. The Committee may, if it wishes, vary the order of business as published in the Agenda.
3. Accordingly, whilst every effort is made to be as helpful as possible, it is very difficult to give a precise indication to the members of a deputation as to the

time when the matter in which they have an interest will be reached. The Democratic Services Officer concerned (contact details are set out below) may be contacted on the day of the meeting in an effort to clarify the situation, but otherwise the members of a deputation are asked to be in attendance in the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant at least fifteen minutes before the normal starting time (normally 4.45 pm).

*A warning note* - if the subject matter of a deputation has been debated and decided upon by the time a deputation arrives, it will not then be possible for the deputation to appear before the Committee.

4. If time permits prior to commencement of the meeting the deputees will be shown from where speeches will be made in the Meeting Room at the Public Service Plaza, Civic Centre Road, Havant and where to sit prior to and after delivery of the deputation.
5. Deputations are heard with the subject matter to which they relate. After all deputations for a subject matter have been heard, the Committee will make and announce their decision.
6. In cases where it is known beforehand that the views of the deputation accord with what the officers might be recommending and there are no deputations wishing to appear to put the contrary view, the Chairman will normally ask the members of the Committee if they oppose the officers' recommendation. If the members indicate that they will not speak against the officers' recommendation, the Chairman will ask the deputees if he or she still wishes to address the Committee. Please note that it is open to the Chairman concerned to decide to deal with the matter in any other way.
7. When the particular item is reached on which there may be a deputation or deputations, the order of business will normally be as follows:-
 

(a)	There will be a presentation by the Officer(s) concerned (if required), including questions by the Committee Members of the Officers.	No Time Limit
(b)	The deputation(s) opposing the matter to be discussed will be heard.	A total of 5 minutes is allocated for those objecting
(d)	The deputation supporting the matter to be discussed will be heard	A total of 5 minutes is allocated for those supporting
(c)	County Councillors	A total of 5 minutes is allocated for County Councillors
(e)	Members of the Committee, who have formed a conclusive view on an matter included in the agenda	A total of 5 minutes is allocated for those Members, who have formed a

conclusive view

- (f) Elected members of the Council who are not members of the Committee who have indicated in advance of the meeting that they wish to address the Committee
- (g) The matter will be debated, including any questions by the members of the Committee of the Officers, and a decision made.
8. The exception to 7 above would be where the matter is one where a resolution excluding the public during the debate has been passed. In such instances, only 7(b), 7(c), 7(d), 7(e) and 7(f) would take place in public, with officer's presentation and any debate taking place later in the meeting without the public being present.
9. The members of a deputation may, if they wish, remain in the public gallery until that matter is dealt with (provided it is not a confidential matter when both the press and the public are excluded).

### **STAFF TO CONTACT ON DEPUTATIONS**

- |  |                                 |  |
|--|---------------------------------|--|
| (1) Scrutiny Board   | Mark Gregory<br>Nicholas Rogers | (023) 9244 6232<br><a href="mailto:mark.gregory@havant.gov.uk">mark.gregory@havant.gov.uk</a><br>(023) 9244 6233<br><a href="mailto:nicholas.rogers@havant.gov.uk">nicholas.rogers@havant.gov.uk</a> |
| (2) Joint Human Resources Committee (with East Hampshire District Council) | Jack Caine                      | (023) 9244 6230<br><a href="mailto:jack.caine@havant.gov.uk">jack.caine@havant.gov.uk</a>  |
| (3) Governance and Audit Committee   | Nicholas Rogers                 | (023) 9244 6233<br><a href="mailto:nicholas.rogers@havant.gov.uk">nicholas.rogers@havant.gov.uk</a>  |

Or

[DemocraticServicesTeam22@havant.gov.uk](mailto:DemocraticServicesTeam22@havant.gov.uk)

Address: Democratic Services Team Havant Borough Council Public Service  
Plaza Civic Centre Road  
Havant, Hants P09 2AX

# APPENDIX 7

## DEPUTATIONS AT COUNCIL MEETINGS

### A. General Notes

1. Deputations can appear before Council Meetings other than the meetings convened annually (1) for electing the Mayor and (2) to make appointments to the Cabinet, committees and boards, and related appointments.
2. A deputation can only appear in connection with a matter which relates to a function of the Council.
3. A deputation to a Council meeting may only be made by Local Government electors for the Borough of Havant who represent groups or organisations working or represented locally which are recognised as such by the Council.
4. ***The purpose of the deputations procedure is to allow deputees to address the Council orally. Deputees will not therefore be able to put any documents or written material to the Council at the meeting as there is no practical opportunity for members or officers to study this without delaying and disrupting the conduct of the meeting.***
5. If there has been a deputation within six months of any previous appearance on the same or similar topic (irrespective of whether or not the member(s) of the deputation might be different) then no such new deputation will be received until that time limit has expired. If a deputation appears before any one of the meetings open to deputations as listed below, that deputation will not be permitted to appear before a Council Meeting on the same or similar subjects until a period of six months has elapsed since the first appearance before any one of following meetings:
  - a Council Meeting
  - the Cabinet
  - a Scrutiny Board
  - a Governance and Audit Committee
  - a Development Management Committee
  - a Licensing Committee
  - a Joint Human Resources Committee
  - a West of Waterlooville Major Development Area (MDA) Joint Planning Committee

## B Registering Your Intention to Speak

1. Notice of the wish to be received as a deputation must be given in writing or by email to the Democratic Services Team Leader by no later than the Thursday of the week before publication of the Council Summons takes place.
2. In all cases, the notice must briefly specify the subject or the function on which the deputation wishes to speak.
3. You will be advised as soon as practicable whether or not the request to be received as a deputation has been agreed.

## C. About Deputations Generally

1. A deputation can consist of one but not more than two persons.
2. It is for the members of a deputation to decide who will address the meeting. Where it is two persons, both may speak if they wish.
3. There is a limit on the total time allocated for deputations at any one meeting. Currently, this is thirty minutes. No questions are allowed to be asked of the deputation.
4. No deputation may address the Council for more than five minutes.

## D. Procedure

1. Ordinarily, all meetings commence at 5 pm. All meetings take place in the Hurstwood Room.
2. It is the intention and wish of members that deputations be heard as soon as possible after commencement of the meeting,

HOWEVER, all meetings may, if they wish, vary the order of their business so that deputations (and any consequent debate on the subject matter) can be taken earlier in the order of business.

3. Accordingly, whilst every effort is made to be as helpful as possible, it is very difficult to give a precise indication to the members of a deputation as to the time when the matter in which they have an interest will be reached. The Democratic Services Team Leader (contact details are set out below) may be contacted on the day of the meeting in an effort to clarify the situation, but otherwise the members of a deputation are asked to be in attendance in the public gallery in the Council Chamber at least fifteen minutes before the normal starting time (normally 4.45 pm).

*A warning note* - if the subject matter of a deputation relates to a matter before the Council for consideration and has been debated and decided upon by the time a deputation arrives, it will not then be possible for the deputation to appear.

4. The deputation will be shown from where speeches will be made in the Council Chamber and where to sit prior to and after delivery of the deputation.
5. All deputations are heard in succession. The subject matter (if the deputation is in respect of something actually before the Council) will be debated much later in the meeting.
6. The members of a deputation may, if they wish, remain in the public gallery until that matter (if the deputation is in respect of something actually before the Council) is dealt with (provided it is not a confidential matter when both the press and the public are excluded).

#### **STAFF TO CONTACT ON DEPUTATIONS**

Penny Milne  
Democratic Services Team Leader

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Democratic Services Team  
Havant Borough Council  
Civic Offices  
Civic Centre Road  
Havant, Hants P09 2AX



# **APPENDIX 8**

## **RECORDING, PHOTOGRAPHY AND USE OF SOCIAL MEDIA PROTOCOL**

### **RECORDING OF PROCEEDINGS BY THE MEDIA AND RESIDENTS OF THE BOROUGH**

The purpose of this protocol is to provide guidance, particularly, for members of the press or public on the taking of photographs and/ or the audio / visual recording of any Council meeting which is held in public.

The protocol also refers to the use of “Social Media”.

#### **Limitations**

Although it is permissible to photograph and make audio / visual recordings of Council meetings, the proceedings of that meeting should not be disrupted by the use of media tools and should not inhibit community involvement in the proceedings.

It is only permissible to record the proceedings of the meeting. This permission does not extend to the public gallery and the rights of members of public also attending should be respected.

Oral reporting or oral commentary on a meeting as it takes place by a person present at the meeting is not permitted as this is likely to disrupt the proceedings of a meeting.

If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed and the operator of the equipment will be required to stop recording and /or photography and required to leave the meeting.

Whilst the venues of meetings will provide reasonable facilities to enable the recording of proceedings, any person wishing to record a meeting is advised to check with the appropriate Democratic Services Officer to ensure that the venue can accommodate his or her recording equipment.

#### **Audio and Visual Recording - Your Obligations**

1. Subject to the limitations set out above, audio and visual recording is permitted of all Council meetings which are open to the public.
2. Those wishing to record proceedings should, as a courtesy, inform the Democratic Services Officers of their intentions to record prior to the commencement of the meeting. (Contact details are available on the Agenda for the meeting and on the Council’s Website) and provide the following information:



- (a) the name, organisation (if applicable) and contact details;
  - (b) what equipment it is intended will be used (e.g. camera/audio recorder/video camera);
  - (c) what the photographs, or audio / visual recording will be used for and / or where the information is to be published
3. Any photography, audio or visual recording must not disrupt the meeting in any way. To avoid disruption of the meeting all recordings may only be taken overtly from the area designated for the public and;
- a. recording devices must be in silent mode;
  - b. flash photography should only be taken at the beginning or during a break in the meeting;
  - c. recordings must be taken from one fixed position and must not obstruct others from observing proceedings; and
  - d. additional lighting will not be permitted
4. As a matter of courtesy any person recording the proceedings of a meeting is asked to comply with any request by the Mayor or Chairman relating to disruption of the meeting and the privacy of members of the public.
5. Any published recording must be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.
6. Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.
7. People seated in the public gallery / seating area should not be photographed, filmed or recorded if they object to being photographed, filmed or recorded. The Chair will make an announcement at the beginning of that the meeting will be photographed and /or recorded or filmed and give members of the public an opportunity to indicate whether they don't wish to be filmed. Individuals making a deputation may be filmed. However, if a deputeo objects to being filmed, you are asked to respect this individual's right to privacy and only make a sound recording of the deputation.
8. Use should not be made of an image or recording if consent is refused by an individual.

## **Audio and Visual Recording - Your Rights**

9. If as a member of the public you do not wish to be photographed, filmed or recorded please inform the Democratic Services Officer in attendance at the meeting or the Mayor or Chairman of the relevant committee.

## **Procedure at the Meeting**

10. Equipment must be set up before the meeting starts. The use of flash photography or additional lighting will only be permitted for a limited period at the commencement or during a break in the proceedings.
11. The Chair will also make an announcement at the beginning of the meeting that the meeting will be photographed and /or recorded or filmed and give members of the public an opportunity to indicate whether they don't wish to be filmed
12. If the Mayor or Chairman of the relevant Committee feels the photography and/or the audio / visual recording is disrupting the proceedings or any pre-meeting agreement has been breached the meeting shall be adjourned and the persons causing the disturbance will be asked to resolve the issue. If the disruption continues the Mayor or Chairman of the relevant Committee may adjourn the meeting to another date.
13. If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed.

## **Social Media**

14. There are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media". However, if the Mayor or Chairman considers their actions are disrupting the proceedings of the meeting he or she may adjourn the meeting to enable the matter to be resolved. If the disruption continues after the meeting has resumed the Mayor or Chairman may adjourn the meeting to another date.
15. If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to Tweet, blog, Facebook or similar "social media" in the meeting is removed and the press and public will be required to leave the meeting.



# **PART 3**

## **FINANCIAL AND CONTRACT PROCEDURE RULES**



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<a href="#">Appendix 3</a>	Prompt Payment Code



## **Introduction**

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.

The 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 Directors, Heads of Service and other employees.

All Councillors and staff 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.

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.

The Head of Paid Service and Executive Directors are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's financial procedures and other internal regulatory documents and that they comply with them.

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.

All Council employees must seek to achieve value of money and shall give appropriate consideration to:

- Economy - acquiring resources of appropriate quality for the minimum cost;
- Efficiency – ensuring that the maximum output is obtained from the resources devoted to an activity;
- Effectiveness – ensuring that the output from any activity is achieving the desired result or target set; and
- 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.

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 responsibility to the Deputy S151 Officer, finance Team Leaders or Principal Accountants where appropriate.

The procedures apply across both East Hampshire District Council and Havant Borough Council facilitating joint management and shared services.





## **Section M**

# **Responsibilities for Financial Management**



## **PART 3 SECTION M: RESPONSIBILITIES FOR FINANCIAL MANAGEMENT**

### **Introduction**

**M.1** Financial management covers all financial accountabilities in relation to the running of the Council. The overall roles and responsibilities for the Cabinet, Council, Governance and Audit Committee and statutory officers are outlined in the Articles in the Constitution.

### **Financial Responsibilities of the Full Council**

**M.2** Full Council is responsible for:

- Approving the Council's expenditure plans, including Medium Term Financial Strategy, Revenue Budget, Capital, Council Tax and Reserves annually;
- Approving the Council's Treasury Management Strategy annually;
- Approving the Council's Fees & Charges annually; and
- Ensuring financial accountability through ownership of the Financial Regulations.

### **Financial Responsibilities of the Cabinet**

**M.3** The Cabinet is responsible for:

- Proposing the policy framework and budget to Full Council;
- Authorising release of capital funds on the basis of detailed project plans;
- Movement of budget (Virement) between services between £100,000 and £250,000;
- 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:
  - Additional external resources;
  - Additional capital resources; or
  - Additional credit approvals.
- Receiving forecast reports and an outturn report;
- Approving the use of underspends post year end;

- Approving the use of the General Fund balance; and
- Approving delegations, including financial frameworks, for partnerships.

### **Financial Responsibilities of the Governance & Audit Committee**

**M.4** The Governance & Audit Committee is responsible for:

- Scrutinising Cabinet decisions, including financial implications, before or after they have been implemented and for holding the Cabinet to account;
- Monitoring and annually reviewing corporate governance arrangements;
- Receiving risk management updates;
- Acting as audit committee; and
- Approving the Annual Statement of Accounts.

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### **Financial Responsibilities of the Scrutiny Board**

**M.5** The Scrutiny Board is responsible for Scrutinising Cabinet decisions, including financial implications, before or after they have been implemented and for holding the Cabinet to account

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

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

**M6** The core financial responsibilities of the Head of the Paid Service are:

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

#### **Monitoring Officer**

**M.7** 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:

- 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;
- Incurring budget transfers above virement limits; and
- Cumulatively causing the total expenditure financed from Council Tax, grants and corporately held reserves in the current financial year to increase significantly.

### **Chief Finance Officer**

**M.8** 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 arise from:

- Section 151 of the Local Government Act 1972;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounts and Audit Regulations 2003 (as amended 2006 and 2011); and
- Any future legislation.

**M.9** The Chief Finance Officer is responsible for:

- 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, and the Council's external auditor 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;
- The administration of the financial affairs of the Council;
- Contributing to the corporate management of the Council, in particular through the provision of professional financial advice;
- Promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;

- 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;
- Providing financial information to the media, Councillors, the public and the community;
- Authorising exceptional payments for which budget provision has not been made, if the Council is legally obliged to make such payments;
- The selection of accounting policies, procedures and records for the Council and ensuring that they are applied consistently; and
- 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 2003 (as amended 2006 and 2011).

**M.10** **Section 114** of the Local Government Finance Act 1988 requires the Chief Finance Officer (after consulting the Head of Paid Service and the Monitoring Officer) to report to Full Council, Cabinet and the Council's external auditor or one of its officers of the Council:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council; and
- Is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally;
- The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114; and
- In the absence of the Chief Finance Officer, the Deputy Section 151 Officer will carry out duties under section 114.

### **Financial Responsibilities of the Executive Board**

**M.11** The Executive Board consists of the Head of Paid Service and Executive Directors. The financial responsibilities of the Executive Board are:

- 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;
- To review the budget performance every quarter, make changes and recommend changes to Cabinet; and
- 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.

- M.12** The Head of Paid Service and Executive Directors will consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.
- M.13** All reports to the Cabinet, Committees and the Council shall identify financial implications in a format agreed with the Chief Finance Officer.
- M.14** In exceptional circumstances, the Head of Paid Service or an Executive Director, 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. This is subject to the action being reported as soon as practical to the Executive Board and the Cabinet Lead, and if the expenditure exceeds £50,000, to Cabinet.





**Section N**  
**Financial Planning**



## PART 3 SECTION N: FINANCIAL PLANNING

### Introduction

**N.1** Full Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- The Council's Corporate Strategy;
- The Medium Term Financial Strategy (via a recommendation from Cabinet);
- The Revenue Budget and Capital Programme; and
- The Treasury Management Strategy.

### Policy framework

**N.2** 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, the control of its capital and reserves expenditure and setting of virement procedures.

**N.3** Full Council is also responsible for approving procedures for agreeing variations to the approved budgetary and policy framework, and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.

**N.4** Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. 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 set by the Council.

### Budgeting

**N.5** 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 and Executive Directors 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.

- N.6** 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.
- N.7** It is the delegated 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.

### **Revenue Budget preparation**

- N.8** 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.
- N.9** 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.
- N.10** The Chief Finance Officer is responsible for ensuring that there is adequate consultation and challenge to the budget process.

### **Revenue budget monitoring and control**

- N.11** Once approved by the 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 Board and to Cabinet on the overall position as necessary.

### **Resource allocation**

- N.12** 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.

## **Resource Reallocation – Budget Virements**

**N.13** Full Council is responsible for agreeing procedures for transferring revenue budget provision from one published service budget heading to another (subsequently known as “virement”). 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 SO63 of the Constitution.

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

**N.14** Carry forward to the following financial year of planned under or over-spending will be allowed with the agreement of the Chief Finance Officer in consultation with the Finance Cabinet Lead. 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.

**N.15** 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.

**N.16** Budget Variations relate to differences between budgeted and actual income and expenditure, and the use of underspends to fund other expenditure. The Chief Finance Officer is responsible for agreeing budget variations and reporting them in Budget Monitoring and Outturn Reports.

## **Preparation of the Capital Programme**

**N.17** 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.

**N.18** Capital schemes may only be committed after:

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

## **Control of Capital Schemes**

**N.19** 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 SO63.

## **Guidelines**

**N.20** Guidelines on capital budget preparation are to be issued by the Chief Finance Officer. The guidelines will take account of:

- Legal requirements;
- Links with the Business Planning process;
- The Council's Corporate Strategy;
- Available resources;
- Spending pressures;
- Relevant government guidelines;
- Other internal policy documents; and
- Cross-cutting issues (where relevant).

## **Maintenance of reserves**

**N.21** 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.

**N.22** It is the responsibility of Heads of Service [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.

## **Section O**

# **Risk Management and Control of Resources**





## PART 3 SECTION O: RISK MANAGEMENT AND CONTROL RESOURCES

### Introduction

- O.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### Risk management

- O.2** The Governance & Audit Committee is responsible for reviewing the effectiveness of risk management. The Chief Finance Officer is responsible for ensuring that proper insurance exists where appropriate.
- O.3** The Chief Finance Officer is responsible for promoting risk management throughout the Council and for advising the Cabinet on proper insurance cover where appropriate. The Head of Paid Service and Executive Directors are 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:
- (a) 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;
  - (b) 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;
  - (c) Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
  - (d) Risks are quantified in financial terms and provision is made for losses that might result from the risks that remain;
  - (e) Procedures are in place to investigate claims within required timescales;
  - (f) Acceptable levels of risk are determined and insured against where appropriate; and
  - (g) The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

## **Insurances**

- O.4** The Chief Finance Officer shall effect all insurance cover deemed necessary and negotiate all claims in consultation with other officers where necessary.
- O.5** The 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.
- O.6** The 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 Directors will report orally pending submission of a written report. The Chief Finance Officer shall, appropriately, keep the Head of Paid Service informed.
- O.7** The Chief Finance Officer shall periodically review all insurances in consultation with the Heads of Service, Head of Paid Service and Executive Directors as appropriate.
- O.8** The Chief Finance Officer shall review the internal funding for insurance risks on a regular basis and report to the Cabinet as required.
- O.9** The Head of Paid Service and Executive Directors shall consult the Chief Finance Officer and the Monitoring Officer regarding the terms of any indemnity which the Council is requested to give.
- O.10** The Head of Paid Service or Executive Director 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.

## **Internal Control**

- O.11** 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.
- O.12** 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.

- O.13** 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 and for achieving their financial performance targets.
- O.14** It is the responsibility of the Chief Finance Officer to ensure that a review of the adequacy of Corporate Governance arrangements are carried out at least annually, in accordance with the Accounts and Audit (England) Regulations 2011.

### **Audit requirements**

- O.15** The Accounts and Audit (England) Regulations 2011 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 2013.
- O.16** The main provision in the Accounts and Audit Regulations 2015 as subsequently amended is reproduced at Appendix 1.
- O.17** 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.
- O.18** The Chief Finance Officer is required to present the annual Audit Plan, for approval, to the Committee responsible for Internal Audit and, at least three times in each year, report to the same Committee on progress against the plan and give details of management responses to audit recommendations.
- O.19** The 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:
- Enter any Council premises or land in the occupation of the Council;
  - Have access to all records, documents and correspondence relating to any financial and other transaction of the Council;
  - Require and receive oral or written explanations from any employee as he/she thinks necessary concerning any matter under examination; and
  - Require any employee of the Council to produce cash, stores or any other Council property under his/her control.

- O.20** Whenever any matter arises which involves, or is thought by any Council employee 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 employee 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.
- O.21** The Chief Finance Officer is responsible for ensuring that the selection of External Audit 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.

### **Preventing fraud and corruption**

- O.22** 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 Directors 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.

### **Assets**

#### **Security**

- O.23** The 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.
- O.24** The Head of Paid Service and Executive Directors 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. He/she 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.
- O.25** Maximum limits for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without his/her express permission.
- O.26** 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.

- O.27** The Head of Paid Service and Executive Directors 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 Directors shall have regard to any advice given by the officer appointed as Data Protection Officer.
- O.28** The Head of Paid Service and Executive Directors shall have regard to the Council's I.S./I.T. Security Policy and ensure that only licensed software is used in systems under his/her 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.
- O.29** Council property, for example printing, telephones and photo-copiers, shall not be used for private purposes.

### **Stocks and Stores**

- O.30** 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.

### **Physical Assets**

- O.31** A register of Council land holdings shall be maintained by the Head of Finance & Assets of all properties owned by the Council recording the purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest, rents payable, and tenancies granted.
- O.32** The Monitoring Officer shall have the custody of all title deeds of property belonging or mortgaged to the Council.
- O.33** The 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 £15,000 for the purposes of Capital Accounting.
- O.34** 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.
- O.35** The 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.

- O.36** 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 Director concerned.
- O.37** Disposals of land and property assets for best consideration at both Councils, 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 relevant Cabinet Lead.
- O.38** 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 found at appendix 2.
- O.39** Best consideration must be achieved in the disposal of all fixed assets. Where items are to be scrapped at nil price they must be disposed of directly to a County Council Waste Disposal facility, or through a commercial company approved by the Chief Finance Officer.
- O.40** 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.
- O.41** Surplus IT equipment, if appropriate, may be disposed of to bona fide non profit making organisations based within the Council's area free of charge. Further information on disposal methods is given at Appendix 2.

### **Treasury management**

- O.42** The Council has adopted the CIPFA Treasury Management in the Public Services Code of Practice.
- O.43** 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, and prescribing how it will manage and control those activities.

- O.44** 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.
- O.45** 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.
- O.46** 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.
- O.47** 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.
- O.48** All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Chief Finance Officer.
- O.49** 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.
- O.50** All securities which are the property of, or in the name of, the Council shall be held in the custody of the Monitoring Officer except where Fund Managers are employed to act on behalf of the Council.
- O.51** All borrowings shall be undertaken in the name of the Council.
- O.52** Any trust funds shall wherever possible be in the name of the Council.
- O.53** 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 deed otherwise provides.

### **Banking arrangements**

- O.54** 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.



- O.55** All cheques, shall be ordered only on the authority of the Chief Finance Officer.
- O.56** 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.

### **Staffing**

- O.57** The Head of Paid Service is responsible for providing overall management of staff. He or she is also responsible for ensuring that there is proper use of the evaluation, pay negotiations, or other agreed systems for determining the remuneration of a job.
- O.58** The Head of Paid Service and Executive Directors are responsible for controlling total staff numbers by:
- Advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels;
  - The Head of Paid Service, Executive Directors and Heads of Service are authorised to manage staffing establishments and budgets in the most advantageous manner to achieve the policies agreed by the Cabinet and the Council;
  - The Head of Paid Service, Executive Directors and Heads of Service must ensure 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 Operational Development shall be consulted on all proposed changes;
  - Changes affecting officers on Chief Officer terms and conditions cannot be made without approval of Full Council;
  - The proper use of appointment procedures; and
  - The Executive Board will review staffing levels periodically. Where this results in one off costs exceeding £50,000, a business case should be provided to Cabinet for consultation.

## **Section P**

# **Financial Systems and Procedures**



## **PART 3 SECTION P: FINANCIAL SYSTEMS AND PROCEDURES**

### **Introduction**

**P.1** Robust systems and procedures are essential to an effective framework of accountability and control.

### **General**

**P.2** 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 and Executive Directors are responsible for the proper operation of financial processes in their own service areas.

**P.3** Any amendments to agreed financial procedures by the Head of Paid Service and Executive Directors to meet their own specific service needs must be agreed with the Chief Finance Officer.

**P.4** The Head of Paid Service and Executive Directors should ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.

**P.5** The following principles shall be observed in the allocation of accounting duties:

- 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;
- 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;
- Wherever possible accounting transactions and control functions (such as reviews and reconciliations) should be evidenced, providing a full audit trail; and
- Employees shall not certify claims for reimbursement of expenses or other payments to themselves.

### **Income and expenditure**

#### **Collection of income**

**P.6** 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.

- P.7** The Head of Paid Service or appropriate Executive Director shall be responsible, in accordance with the current policies of the Council, for the review of prices for services.
- P.8** 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.
- P.9** 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.
- P.10** Arrangements for the control of all receipt forms, receipt books, tickets and other such items shall be approved by the Chief Finance Officer.
- P.11** 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 days of collection. Payments received in full and final settlement shall only be accepted if they are sufficient to fully clear the appropriate debt.
- P.12** Personal cheques shall not be cashed out of the money held on behalf of the Council.
- P.13** 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 Head of Finance & Assets and Head of Customer Services and trivial debts under £100 by a Principal Accountant. Cumulative debts over £50,000 may be written off by the Chief Finance Officer after consultation with the Cabinet Lead for Finance.

## **Expenditure**

### **Orders**

- P.14** 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 or appropriate Executive Director 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 off invoices.

- P.15** 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 Procurement Rules.
- P.16** 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.
- P.17** 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.

### **Payment of Accounts**

- P.18** The Chief Finance Officer shall promptly pay all accounts properly due and payable by the Council in accordance with the Prompt Payment Code in Appendix 3. The Head of Finance & Assets may withhold payment until the resolution of any dispute relating to that invoice.
- P.19** The Head of Service responsible for an order for his/her services is responsible for the processes for requisitioning, order and approval for payment in his/her service area. This shall be done in accordance with procedures approved by the Chief Finance Officer which shall include electronic receipting and approval processes.
- P.20** 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.

- P.21** The Chief Finance Officer shall examine invoices received to the extent that he/she considers necessary for carrying out statutory duties.
- P.22** Budget Holders will notify the Head of Finance & Assets 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.
- P.23** 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.

### **Imprest Accounts**

- P.24** 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.
- P.25** Income received on behalf of the Council may not be paid into an imprest account but must be banked, or paid to the Council as provided for in Regulation D.7.
- P.26** 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.
- P.27** 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.
- P.28** 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.
- P.29** The Chief Finance Officer may authorise change floats as required and these shall be subject to the imprest account regulations.

### **Payments to employees and Councillors**

- P.30** 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.

- P.31** All Line Managers shall notify the Human Resources Team (HR) 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.

All notifications must be signed by the appropriate manager or nominated officer.

- P.32** Appointments of all employees shall be made in accordance with the regulations of the Council and the established grades and rates of pay.
- P.33** 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.
- P.34** The Heads of Service shall, at least annually, certify the staffing budget for their services as part of the budget setting process.
- P.35** 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.
- P.36** 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.



- P.37** Payments to Councillors, including co-opted Councillors 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 Review Panel.

## **Taxation**

- P.38** The Chief Finance Officer is responsible for advising the Executive Board and Councillors, in the light of guidance issued by appropriate bodies and relevant legislation, on significant taxation issues that affect the Council.
- P.39** 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.
- P.40** The Head of Paid Service and Executive Directors 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.
- P.41** All matters of both principle and practice, including any significant errors or discrepancies, shall be immediately referred to the Chief Finance Officer.
- P.42** Contacts with HM Revenue and Customs concerning matters of V.A.T must be through the Chief Finance Officer.

## **Trading accounts/business units**

- P.43** It is the responsibility of the Head of Finance & Assets to advise on the establishment and operation of trading accounts and business units.

## **Ex-Gratia payments**

- P.44** 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 Directors 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.

## **Retention of records**

**P.45** The Chief Finance Officer shall determine the requirements that the Head of Paid Service and Executive Directors shall observe in relation to the retention of financial records. Retention may be in electronic format

## **Section Q**

### **External Arrangements**



## **PART 3 SECTION Q: EXTERNAL ARRANGEMENTS**

### **Introduction**

- Q.1** The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **Partnerships**

- Q.2** The Head of Paid Service and Executive Directors, 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.
- Q.3** The Head of Paid Service and Executive Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to financial transactions with external bodies.

### **External funding**

- Q.4** 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 and Executive Directors 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.
- Q.5** Expenditure of any external funding will be the responsibility of the appropriate Head of Service, in consultation with the Head of Finance & Assets.

### **Work for third parties**

- Q.6** 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 £50,000.
- Q.7** 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.

**Section R**  
**Contract Procurement Rules**



## **CONTRACT PROCUREMENT RULES**

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## **BRIEF GUIDE TO CONTRACT PROCEDURE RULES**

These contract procedure rules (issued in accordance with section 135 of the Local Government Act 1972) are intended to promote good purchasing practice and public accountability and deter corruption. Officers responsible for purchasing must comply with these contract procedure rules. 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).

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.

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 Contracts, Hampshire County Council, Hampshire and the Isle of Wight procurement partnership or other joint purchasing arrangements you can make use of before undergoing a competitive process;
- Normally allow at least four weeks for submission of bids (not to be submitted by fax or e-mail);
- 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; and
- Assess each contract afterwards to see how well it met the purchasing need and Value for Money requirements.

## **COPE OF CONTRACT PROCUREMENT RULES**

### **1. BASIC PRINCIPLES**

All purchasing and disposal procedures must:

- Achieve value for money for public money spent;
- Be consistent with the highest standards of integrity;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Ensure that Non-commercial considerations do not influence any Contracting Decision;
- Support the Council's corporate and departmental aims and policies; and
- Comply with the Council's Procurement Strategy and other relevant policies.

### **2. OFFICER RESPONSIBILITIES**

#### **2.1 Officers**

2.1.1 Officers responsible for purchasing or disposal must comply with these contract procedure rules, Financial Regulations, the Code of Conduct 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:**

- Have regard to guidance received from Legal and Procurement officers;
- 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;
- Keep the records required by Rule 6; and
- Take legal, financial and procurement advice.

2.1.3 When any employee either of the authority or of a service provider that 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

### 2.2.1 Heads of Service must:

- Ensure that their staff comply with Rule 2.1; and
- Keep registers of:
  - Contracts completed by signature, rather than by the Council's seal (see Rule 18.3) and arrange their safekeeping on Council premises; and
  - Exemptions recorded under Rule 3.2.

2.3 The Officer must comply with the Officer's Code of Conduct 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.

2.4 Officers shall comply with s117 of the Local Government Act 1972 in relation to the declaration of interest in contracts.

## 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.

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 procedure rules, where they are satisfied:

- 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;
- 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
- 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 Council (see Rule 3.1). No exemption can be used if the EU Procedure applies.
- 3.4 All exemptions, and the reasons for them, must be recorded by the Head of Service.
- 3.5 The Corporate Procurement Service must be consulted and an exemption approved by the Monitoring Officer prior to commencing any procurement process using Government Procurement Service Contracts or other joint purchasing arrangements. The terms and conditions of contracts applicable to any joint purchasing arrangement, including the requirement to undertake competition between providers, must be fully complied with.
- 3.6 The Chief Finance Officer may monitor the use of all exemptions.
- 3.7 In order to secure Value for Money, the authority may enter into collaborative procurement arrangements. The Officer must consult the Chief Finance Officer and the Monitoring Officer where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- 3.7.1 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 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.
- 3.7.2 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.
- 3.7.3 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 procedure rules. 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:
- The carrying out of construction and engineering works;

- The supply or disposal of goods;
- The hire, rental or lease of goods or equipment; and
- The delivery of services.

#### 4.2 Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the authority; or
- Agreements regarding the acquisition, disposal, or transfer of land which do not form part of a wider transaction under which the Council procures works, goods or services (for which Financial Regulations 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 taking into account any guidance in the Purchasing Guidance, by:

- Satisfying themselves that they have the necessary authority to deal with the purchase and that there is budget provision for the purchase;
- Taking into account the requirements from any relevant review appraising the need for the expenditure and its priority defining the objectives of the purchase;
- Assessing the risks associated with the purchase and how to manage them;
- 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;
- Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
- Drafting the terms and conditions that are to apply to the proposed contract;
- 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;
- Setting out these matters in writing if the Total Value of the purchase exceeds £50,000; and
- Assess any insurance requirement to be included in accordance with the risk assessment outcomes.

and by confirming that:

- There is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and schemes of delegation to Cabinet Leads and/or officers as set out in the Constitution; and
- If the purchase is a Key Decision, all appropriate steps have been taken.

## 6. RECORDS

In all contractual arrangements the Officer responsible for letting the contract shall ensure that the legal service is notified and any contract is stored within the Council's strong room.

6.1 Where the Total Value is less than £50,000, the following records must be kept:

- A unique reference number (provided by the legal service before filing in the strong room) for the contract and the title of the contract;
- Invitations to quote or tender and Quotations or Tenders;
- A record:
  - Of any exemptions and the reasons for them; and
  - Of any Contracting Decision and the reasons for it including the evaluation of the Quotation or Tender.
- Written records of communications with all tenderers or an electronic record if a written record of the transaction would normally not be produced.

6.2 Where the Total Value exceeds £50,000 the Officer must record:

- A unique reference number (from legal services) for the contract and the title of the contract;
- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it;
- Any exemption under Rule 3 together with the reasons for it;
- The Award Criteria in descending order of importance;
- Tender documents sent to and received from Candidates;
- Pre-tender market research;
- Any selection criteria relied upon;
- Clarification and post-tender negotiation (to include minutes of meetings);
- The contract documents;
- Post-contract evaluation and monitoring; and
- Communications with Candidates and with the successful contractor throughout the period of the procurement.

6.3 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:

- The Council's website;
- Portal websites specifically created for contract advertisements;
- A local or national newspaper or specialist publication; and
- National official journals, or the Official Journal of the European Union (OJEU)/ Tenders Electronic Daily (TED) (even if there is no requirement within the EU Procedure). These can be placed by the 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:

- Economic and financial standing (to be confirmed with the finance team); and
- 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:

- Approved Lists of providers, maintained by the authority or on its behalf, and compiled following responses to a public advertisement;
- An open tender process including this assessment, or
- shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.

7.1.4 Public advertisements issued in respect of Rule 7.1.3 above 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 which is subject to the EU Procedure must not exceed four 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:



- 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
- by holding a mini competition in accordance with the terms and conditions of the Framework Agreement.

## CONDUCTING PURCHASE AND DISPOSAL

### 8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL 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	3 quotes or invitation to Tender by advertisement/list to at least three Candidates	Officer and Line Manager
£100,001– EU Threshold	3 quotes or invitation to Tender by advertisement/ list to at least three Candidates	Officer, 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 Candidates	Consult the Monitoring Officer – 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 procedure rules.
- 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 Assets for Disposal**

- 8.2.1 Assets for disposal may be sent to public auction or where the Chief Finance Officer is satisfied that better Value for Money is likely to be obtained by inviting Quotations or Tenders. (These may be invited by advertising on the Council’s internet site.)

**8.3 Providing Services to External Purchasers**

- 8.3.1 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 Regulations.

**8.4 Collaborative and Partnership Arrangements**

- 8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules. Officers must seek the advice of the Monitoring Officer and the Corporate Procurement Service.

**8.5 The Appointment of Consultants to Provide Services**

- 8.5.1 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
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 Monitoring Officer see Rule 8.1.4
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- 8.5.2 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.
- 8.5.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.5.4 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.
- 8.5.5 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 8.5.1 – 8.5.4 (inclusive)

## **9. PRE-TENDER MARKET RESEARCH AND CONSULTATION**

- 9.1 The Officer responsible for the purchase:
- 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
  - 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**

- 10.2 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.
- 10.3 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:

- 'lowest price' where payment is to be made by the authority;
- 'highest price' if payment is to be received; or
- '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, 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:

- Non-commercial considerations; and
- Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

## 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 noncollusion.

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 Unless the Tender is sought in accordance with an electronic tendering process approved by the Chief Financial and Monitoring Officer 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 Quotation or Tender.

## **12. SHORTLISTING**

- 12.1 Any Shortlisting must have regard to the financial and technical standards relevant to the contract and the Award Criteria. Special rules apply in respect of the EU Procedure.
- 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 received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering process approved by the Chief Finance Officer and Monitoring Officer.
- 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:

- Suitably recorded so as to subsequently verify the date and precise time it was received;
  - Adequately protected immediately on receipt to guard against amendment of its contents; and
  - 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 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.

#### **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 procedure rules, or the EU 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 or withdraw their tender. Alternatively, 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 who is identified as having submitted the best 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 information required by the EU Procedure 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 days 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. The requirement to notify candidates of the intention to award a contract or Framework Agreement in this Rule 17.2 does not apply to:

- Contracts and Framework Agreements that are not subject to the full EU Procedure (such as Part B Services under the EU Procedure), or where value is under the EU threshold; and
- Contracts subsequently awarded and called off based on a Framework Agreement that was let in accordance with the EU Procedure.

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 2006, 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 1998 and any amendments to or re-enactments of that legislation and 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.
- 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.”



### 8.3 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 Fraud and Corruption Strategy.

18.3.2 The Officer must comply with the Code of Conduct 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], 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) At common law concerning fraudulent acts relating to this Agreement or any other contract with the Authority; or
  - (iv) Defrauding, attempting to defraud or conspiring to defraud the Council."

### 18.4 SOCIAL VALUE

Before starting a procurement process, the Public Services (Social Value) Act 2012 requires the authority to consider the following:

- (a) How what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area; and

- (b) How, in conducting the process of procurement, it (the authority) might act with a view to securing that improvement.

The matters to be considered above must be relevant to what is proposed to be procured.

Further, the authority must consider whether to undertake any consultation as to the matters referred to in (a) and (b) above.

## 18.5 HEALTH AND SAFETY

18.5.1 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.

18.5.2 The following clause must be put in every written authority contract:

- “1.1 The [Contractor] must comply with the health and safety acts, health and safety regulations and codes of practice that are approved by the health and safety commission.  
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 that exceed £50,000 shall be in writing.

19.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- The provisions for payment (i.e. the price to be paid and when);
- The time, or times, within which the contract is to be performed; and
- 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:

- That the contractor may not assign or sub-contract without prior written consent;
- Any insurance requirements;

- Data protection requirements, if relevant;
- Freedom of Information Act requirements;
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant;
- Clauses in relation to equalities and diversity, prevention of corruption, and health and safety in accordance with clause 18 above.

19.1.5 The formal advice of the Monitoring Officer must be sought for the following contracts:

- Where the Total Value exceeds £100,000;
- Those involving leasing arrangements;
- Where it is proposed to use a supplier's own terms; or
- 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.

18.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

18.3.3 A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end;
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;

- There is any doubt about the authority of the person signing for the other contracting party; or
- The Total Value exceeds £100,000.

## **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:

- The Total Value exceeds £250,000, or
- Award is based on evaluation of the parent company; or
- 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:

- where the Total Value exceeds £1,000,000; or
- 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.

## **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 EU Threshold limits, 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:

- Performance;
- Compliance with specification and contract;
- Cost;
- Any Value for Money requirements; and
- User satisfaction and risk management.

## DEFINITIONS

Approved List	A list drawn up in accordance with Rule 7.1.
Authorised Signatory	The Monitoring Officer or an officer authorised by the Monitoring Officer in accordance with the Council's constitution to sign a contract or 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 a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superceded by Value for Money.
Cabinet Lead	A member of the Executive to whom political responsibility is allocated in respect of specified functions.

Candidate	Any person who asks or is invited to submit a Quotation or Tender.
Chief Finance Officer	The Council's Chief Finance Officer as identified in the Constitution.
Code of Conduct	The code of conduct for employees as set out from time to time in the Constitution.
Committee	A committee which has power to make decisions for the Council, for example a joint committee with another local authority, but not a scrutiny committee.
Constitution	The constitutional document approved by the Council of which those Contract Procedure Rules form part issued under Section 37 of the Local Government Act 2000.
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.
Councils	East Hampshire District Council and Havant Borough Council.

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.
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein.
Executive	The Council's Executive as defined in the Constitution.
Financial Regulations	The financial regulations outlining Officer responsibilities for financial matters being part of the Constitution.
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 Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase that is in the opinion of the Chief Finance Officer one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.

High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender	Invitation to tender documents in the form required by these contract procedure rules.
Key Decision	Decisions that are defined as key decisions in the Access to Information Rule in Section F of Part 3 of the Constitution.
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 contract procedure rules.
Monitoring Officer	As identified in the Constitution
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 irrelevant 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 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>
Officer	The Officer designated by the Head of Service to deal with the contract in question.
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.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement Board	The group of Officers that meets regularly to consider procurement issues on a corporate basis.

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.
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 contract procedure rules 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.
Supervising Officer	The Line Manager's immediate superior.
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	The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows: (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; (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; (c) where the contract is for an uncertain duration, by multiplying

	<p>the monthly payment by 48; and (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)</p> <p>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 employees are transferred along with the business.</p>
Value for Money	<p>Value for money is not the lowest possible price; it is the most economically advantageous proposal that combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.</p>

**Accounts & Audit Regulations 2015 (Financial Regulation O.15)**

**Internal audit**

- (1) A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.
- (2) Any officer or member of a relevant authority must, if required to do so for the purposes of the internal audit:
  - (a) Make available such documents and records; and
  - (b) Supply such information and explanations.

As are considered necessary by those conducting the internal audit.

- (3) In this regulation “documents and records” includes information recorded in an electronic form.

**Review of internal control system**

- (1) A relevant authority must, each financial year:
  - (a) Conduct a review of the effectiveness of the system of internal control required by regulation 3; and
  - (b) Prepare an annual governance statement.
- (2) If the relevant authority referred to in paragraph (1) is a Category 1 authority, following the review, it must:
  - (a) Consider the findings of the review required by paragraph (1)(a):
    - (i) By a committee; or
    - (ii) By members of the authority meeting as a whole; and
  - (b) Approve the annual governance statement prepared in accordance with paragraph (1)(b) by resolution of:
    - (i) A committee; or
    - (ii) Members of the authority meeting as a whole.
- (3) If the relevant authority referred to in paragraph (1) is a Category 2 authority, following the review it must:

- (a) Consider the findings of the review by members of the authority meeting as a whole; and
  - (b) Approve the annual governance statement prepared in accordance with paragraph (1)(b) by resolution of members of the authority meeting as a whole.
- (4) The annual governance statement, referred to in paragraph (1)(b) must be:
- (a) Approved in advance of the relevant authority approving the statement of accounts in accordance with regulations 9(2)(b) or 12(2)(b) (as the case may be); and
  - (b) Prepared in accordance with proper practices in relation to accounts(1).

**Disposal of Vehicles, Plant and Equipment (Financial Regulation O.37 to O.41)**

**1.1 General Arrangements for disposals where the Chief Finance Officer's approval is not required**

In all cases, except where the method of disposal has been specifically approved by the Cabinet and/or Council, authorising officers shall arrange disposals in accordance with the following guidance.

- When deciding the arrangements for disposal authorising officers must arrange disposal with the objective of obtaining the best possible price, net of disposal costs. For guidance, the following methods should be used for disposals:
  - External tender either generally or to specialist agencies;
  - Public Auction at a Reserve Price;
  - Internal Tender subject to a Reserve Price representing the estimated minimum current market value, having due regard to the written down value of the item. Such items offered for tender to Council employees must also be offered to Councillors of the Council;
  - Tender to scrap merchants;
  - Scrap at nil price; and
  - Books of minimal value - transfer to libraries or educational institutions preferably in the District.

Where items are to be scrapped at nil price items must be disposed of directly to a County Council Waste Disposal facility, through a commercial company approved by the Chief Finance Officer or, in the case of smaller items, placed in the refuse bins at the Council Offices.

- All tenders shall be required to be returned by a stipulated date and time to the Service concerned in a sealed envelope endorsed with the name of the tenderer and the item(s) to which they relate. On or after the stipulated time the tenders shall be opened by two officers authorised by the Head of Paid Service or Executive Director concerned.
- Each Service shall keep a record of all tenders for disposals received which shall be signed by those officers who opened the tenders. The record shall include details of:
  - Description of the item;
  - Method of disposal and reserve price
  - Bids received with amounts and date opened
  - Names (and where external addresses) of the tenderers.
  - Successful bid (if any) and date of disposal; and

- Inventory reference.
- The authorising officer will inform the inventory holder of each disposal. The inventory holder must ensure that the inventory is updated in a timely manner with the information received.

## 1.2 **Exceptions to General Arrangements at Paragraph 1.2**

- Furniture and equipment shall in all cases be first offered to other Services of the Council prior to disposal, secondly to bona fide non profit making organisations, unless the authorising officer can demonstrate that part exchange is in the interests of the Council as a whole. A written record must be kept to show that this procedure has been followed and of considerations giving rise to a part exchange.
- Once obsolete, Personal Computers and printers will be referred to the IT Service for disposal. Disposals will be made by one of the following methods:
  - (i) The surplus IT equipment which the Chief Finance Officer deems appropriate for this method of disposal be disposed of to bona fide non profit making organisations based within the Council's area free of charge;
  - (ii) That the procedure for such disposals be adopted in accordance with the following arrangements:
    - a) Details of surplus equipment for disposal be advertised on the Council's website;
    - b) Organisations be invited to register an interest in the equipment offered;
    - c) Where more than one organisation expresses an interest in a particular item, then lots be drawn to decide the allocation;
    - d) That the following organisations based in the Council's area are be considered eligible for the above service:
      - Registered Charities;
      - Community Associations;
      - Religious Organisations;
      - Self-Help and Community Groups (but not campaigning organisations or those with political affiliations); and
      - Schools.

Where equipment remains available after an advertisement as above it may be offered for tender to staff and Councillors.

Where PC equipment is of no use to any organisation, it may be disposed of to companies who comply with legislation in the recycling of equipment in an eco-friendly manner.





**Prompt Payment Code (Financial Regulation P8)**

The Council has a clear, consistent policy to pay bills in accordance with contract.

The Council will ensure that the finance and purchasing groups are aware of this policy and adhere to it.

The Council will agree payment terms at the outset of a deal and stick to them. In the absence of other arrangements payment will be made for satisfactorily completed orders within 30 days of receipt of the correctly prepared invoice quoting the Council's order number.

The Council will not extend or alter payment terms without prior agreement.

The Council will provide suppliers with clear guidance on payment procedures.

The Council will ensure that there is a system for dealing quickly with complaints and disputes and advise suppliers without delay when invoices, or parts of invoices, are contested.



# **PART 4**

## **CODES AND PROTOCOLS**



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<a href="#">Section B</a>	Code of Conduct for Employees
<a href="#">Section C</a>	Councillor/Officer Relations Protocol



# **Section A**

## **Code of Conduct for Members**





## **Havant Borough Council**

### **Code of Members' Conduct**

1. This Code of Conduct is adopted pursuant to the Council's duty to promote and maintain high standards of conduct by Councillors and co-opted members<sup>3</sup> of the council.
2. This code applies to you as a member or co-opted member of this Council when you act in that role and it is your responsibility to comply with the provisions of this code.

#### **SELFLESSNESS**

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

#### **OBJECTIVITY**

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

#### **ACCOUNTABILITY**

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

#### **OPENNESS**

6. You must be as open as possible about your actions and those of your Council, and must be prepared to give reasons for those actions.

#### **HONESTY AND INTEGRITY**

7. You must not place yourself in situations where your honesty and integrity may reasonably be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

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<sup>3</sup> A "co-opted member" for the purposes of this code is, as defined in the Localism Act 2011 Section 27 (4) " a person who is not a member of the council but who  
a) is a member of any committee or sub-committee of the council; or  
b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

## LEADERSHIP

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

## GENERAL OBLIGATIONS

9. You must ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the Council and act within the law.
10. You must treat others with respect
11. You must not bully<sup>4</sup> any person.
12. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.
13. You must not disclose information given to you in confidence by anyone, or information acquired by you which you are aware, or ought reasonably to be aware, is of a confidential nature except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are 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:
    - (a) reasonable and in the public interest; and/or
    - (b) made in good faith and in compliance with the reasonable requirements of the Council and in accordance with current legislation.
14. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
15. When making decisions on behalf of or as part of the Council you must have regard to any professional advice provided to you by the Council's officers.
16. When using or authorising the use by others of the resources of the Council:
  - (i) you must act in accordance with the Council's reasonable requirements; and

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<sup>4</sup> Bullying is defined as offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying.

- (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

## REGISTERING AND DECLARING INTERESTS

- 17. You must within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of someone with whom you are living with as a husband or wife, or as if you were civil partners.
- 18. You must disclose the interest at any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'<sup>5</sup>.
- 19. Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 20. Unless dispensation has been granted, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

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<sup>5</sup> A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.



# **Section B**

## **Code of Conduct for Employees**



**CODE OF CONDUCT FOR EMPLOYEES**

*Honesty, Integrity, Impartiality and Objectivity*

- 1 An employee must perform his/her duties with honesty, integrity, impartiality and objectivity.

*Accountability*

- 2 An employee must be accountable to the authority for his/her actions.

*Respect for Others*

- 3 An employee must:
  - (a) treat others with respect;
  - (b) not discriminate unlawfully against any person; and
  - (c) treat members and co-opted members of the authority professionally.

*Stewardship*

- 4 An employee must:
  - (a) use any public funds entrusted to or handled by him/her in a responsible and lawful manner; and
  - (b) not make personal use of property or facilities of the authority unless properly authorised to do so. This includes use of discounts or personal purchasing and supply through the Council's ordering facilities.

***Personal Interests***

- 5 An employee must not in his/her official or personal capacity:
  - (a) allow his/her personal interests to conflict with the authority's requirements; or
  - (b) use his/her position improperly to confer an advantage or disadvantage on any person.



### *Registration of Interests*

- 6 An employee must comply with any requirements of the authority:
- (a) to register or declare interests; and
  - (b) to declare hospitality, benefits or gifts received as a consequence of his/her employment.

### *Reporting Procedures*

- 7 An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.

### *Openness*

- 8 An employee must:
- (a) not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he/she is required by law to do so; and
  - (b) not prevent another person from gaining access to information to which that person is entitled by law.

### *Appointment of Staff*

- 9 (1) An employee must not be involved in the appointment of or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.
- (2) In this paragraph:
- (a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, stepson, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
  - (b) "partner" in sub-paragraph (a) above means a member of a couple who live together.

### *Duty of Trust*

- 10 An employee must at all times act in accordance with the trust that the public is entitled to place in him/her.

## APPENDIX TO CODE OF CONDUCT FOR EMPLOYEES

The code of conduct is expressed in very general language, whilst making very clear the standards which are expected from all staff of the authority. It is the expectation of the Council and the clients of this Council that the highest standards of conduct are expected. To enable staff to more fully understand the meaning of the code of conduct this appendix sets out some examples of what the code requires, and gives an indication of how the code may be applied in specific circumstances.

- *Firstly, who is an "employee" affected by the Code of Conduct?* Any person working for the Council paid for by the Council to do that job. This means not only staff employed by the Council – but also temporary staff from an agency, casual workers etc.
- *What is an "interest"?* Several clauses of the code refer to interests or personal interest. Employees have lives outside their employment with the Council. An interest is any matter in their lives that may influence decision-making.
- *How can my interests conflict with the Council?* There are many ways in which factors can have such an influence. One example would be where an officer makes a decision and the external factors are, or could be, an effect on our decision. So if a planning officer were to make a decision on a house which is owned by her brother (for example) then her decision could easily be one where she is perceived to give preferential treatment to her brother. This will mean that in the interests of openness, the application should be dealt with by the Development Management Committee rather than by the officer under her delegated powers. The important issue here is that for the planning officer to make the decision may conflict with or react detrimentally to the way in which the Council makes rational decisions for the benefit of the area as a whole. A second and equally important issue is that the public should have confidence that the Council carries out those decisions in a fair way. You should also note that the professional reputation of the officer concerned is also protected by the Council stance on these issues.
- *What does "discriminate unlawfully against any other person" mean?* Although legal definitions of discrimination do change with time, we are all familiar with the right of all persons to be treated with fairness and equality. Specific local policies on the subject work in addition to the law and try to reflect the specific needs of the local communities. To support these principles, the Council have "Dignity at Work" and "Race Equality Schemes" available on the Intranet. These policies also outline the ways in which you can report your concerns about discrimination and dignity issues.
- *Can I work outside the Council, or do I need permission?* The Council does not normally have a right to limit the ways in which you spend your life outside office hours. However, if your work becomes an influence that conflicts with your work for the Council this can cause problems. As such you should always discuss your outside work with your manager. Where

employees work in ways which are not related to their employment and the work is in their own time then it should still be remembered that the Council would wish you to protect the reputation of the Council. Referring to the Council, especially where you are discussing matters publicly, is to be avoided. In serious cases, discussing matters in this way could become a disciplinary issue.

- *Can I receive hospitality/attend functions in my official capacity?* Many officers are invited to a variety of functions in an official capacity. This is fine where the officer is representing the authority or is providing information at the engagement as a "voice" of the Council. As examples, you would also always be acting appropriately where the Council has sent you on the Council's behalf, or where your own professional body invites you. Where you are invited to a function as a result of working for the Council, but the Council does not send you then you should ensure that the Monitoring Officer records the fact. This can be done by email. If you are unsure about whether a particular function is appropriate then you should contact your manager to discuss the function.
- *Can I ever accept a gift at work?* The short answer is no. You are paid to do a job, and additional payments beyond your salary could be gross misconduct – they could result in your losing your job. In a worst case scenario if corruption were proven then you could also be fined or go to prison. However if the gift were provided in certain circumstances then it may be acceptable to accept small gifts. Examples would be where a gift is provided as part of a hospitality function, or where the gift is of nominal value. Again, the important issue is to protect your own reputation, and the reputation of the Council. If you were to accept gifts from a person tendering for work, for example, then it could easily be perceived as a bribe. Gifts of money should never be accepted. It is understood that where a gift is offered it may be difficult to refuse without causing embarrassment to the giver. If such a circumstance should occur then you should speak with your manager with a view to the manager recording the gift with the Monitoring Officer as soon as possible after receiving the gift.
- *What would be classed as corruption?* This is legally defined as receiving or giving any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. This is a very broad definition and since corruption could lead to a criminal offence being committed it is vital that all officers at the Council ensure they perform their duties in a demonstrably fair and proper way. As always, advice is available from Legal Services if you are unsure about what might be classed as corruption.

# **Section C**

## **Councillor / Officer Relations Protocol**



## **PART 4 SECTION C: COUNCILLOR/ OFFICER RELATIONS PROTOCOL**

### **1. INTRODUCTION AND PRINCIPLES**

- 1.1 The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the Code of Conduct for Members (“the Members’ Code”) and the Code of Conduct for Employees (“the Employees’ Code”). The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol should be read in conjunction with the Members' Code and the Employees' Code, the Council's Constitution and any guidance issued by the Governance and Audit Committee and/or Monitoring Officer.

### **2. GENERAL POINTS**

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, committees and subcommittees.
- 2.2 At the heart of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.3 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-

standing tradition in public service as an Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the respective Chief Officer. The Chief Officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then they should raise the issue with the Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 2.4 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division/Department at or in a manner that is incompatible with the overall objectives of this Protocol. Such matters should be raised with the officers immediate line manager or Chief Officer as appropriate.
- 2.5 Nothing in this protocol shall prevent an officer expressing a relevant concern under the Council's Confidential Whistle Blowing Policy.
- 2.6 Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with their Chief Officer or the Chief Executive as appropriate. In these circumstances the Chief Officer or Chief Executive will take appropriate action including approaching the individual member concerned or discussing the matter with the Monitoring Officer where they consider there may be a breach of the Members' Code.

### **3. OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

- 3.1 Officers being employees of the Council must act in the best interests of the Council as a whole and must not give politically partisan advice.
- 3.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour.
- 3.3 Certain statutory officers - the Chief Executive, the Chief Finance Officer and the Monitoring Officer have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members. In particular members are reminded of the duty under the Members' Code to have regard to any relevant advice given by the Chief Finance Officer or Monitoring Officer.
- 3.4 The following key principles reflect the way in which officers generally relate to Members:
  - all officers are employed by, and accountable to the authority as a whole;

- support from officers is needed for all the authority's functions including full Council, Scrutiny Board, the Executive, Regulatory and other ordinary committees, Governance & Audit Committee, Joint Committees and individual Members representing their communities etc;
- day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.

3.5 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that in these circumstances it is the Officer, rather than the Member or Members, who legally takes the action and it is the Officer who is accountable for it.

3.6 Finally, it should be remembered that Officers within a Department are accountable to their Chief Officer and that whilst Officers should always seek to assist a Member, they must not, in so doing go beyond the bounds of whatever authority they have been given by their Chief Officer.

#### **4. OFFICER SUPPORT TO THE EXECUTIVE**

4.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure that even if they are predominantly supporting the Executive their political neutrality is not compromised.

4.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report. Similarly, the Chief Executive, Chief Officer or other Senior Officer will always be fully responsible for the contents of any report submitted in their name.

4.3 Where functions which are the responsibility of the Executive are delegated, the Executive will nevertheless remain accountable via the Scrutiny Board, for both its decision to delegate a function and the discharge of those functions.

4.3 Under Executive Arrangements, individual Members of the Executive are allowed to take formal decisions. In Havant the circumstances in which individual members of the Executive can take decisions are set out in the constitution. The Executive, Executive members and Officers must satisfy themselves that they are clear what exactly they can and cannot do.



## **5. OFFICER SUPPORT: SCRUTINY BOARD**

5.1 The Scrutiny Board has the following roles:

- to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- make reports and/or recommendations to the full Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
- consider any matter affecting the area or its inhabitants; and
- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and area committees exercising executive functions.

5.2 It is clearly important that there should be a close working relationship between Chairman of the Scrutiny Board and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure their political neutrality is not compromised.

5.3 It is not the role of Scrutiny Board to act as a disciplinary tribunal in relation to the actions of Members or Officers. The Scrutiny Board should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, the Local Government Ombudsman, complaints to the Governance & Audit Committee or legal action in the Courts.

## **6. OFFICER ADVICE TO PARTY GROUPS**

6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Lead Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members

### **6.2 Attendance at Party Political Group Meetings**

There is now statutory recognition for 'party groups' and these are recognised in the constitution. 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. Senior Officers may properly be called upon to assist and contribute

to such deliberations by 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.

- 6.3 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in his absence the relevant Executive Director) or the Borough Solicitor.
- 6.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - 6.4.1 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of officers.
  - 6.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the Council and 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.
  - 6.4.3 Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.
- 6.5 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 (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.
- 6.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group and that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Authority so far as that is necessary to performing their duties.
- 6.7 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## **7. USE OF COUNCIL RESOURCES**

- 7.1 The use of the Councils resources including the use of computers provided to Members of the Council is governed by a guidance note '**Use of Council Resources Guidance for Members**' which has been published in the Online Policy Hub.

## **8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 8.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Standing Orders.
- 8.2. A Member must not disclose information given to him in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so and must not prevent another person from gaining access to information to which that person is entitled by law. A breach of these requirements is a breach of the Member's Code and actionable by way of referral by the Monitoring Officer of the matter to the Governance & Audit Committee. If the breach is serious a civil action may be brought against the Member and / or the Council for damages.
- 8.3 The Freedom of Information Act 2000 ("the 2000 Act") has brought will bring additional rights and responsibilities regarding the disclosure of information. The right of access under the 2000 Act became fully operational in 2005, alongside the Environmental Information Regulations 2004. The Council is required to proactively publish information via its Publication Scheme and to provide information in response to specific requests, subject to certain conditions and exemptions. The provision relating to access to Council meetings and documentation were amended in 2006 to bring them into line with information rights legislation and those changes are reflected in the Council's constitution.

## **9. CORRESPONDENCE**

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, (for instance where the Monitoring Officer considers this course of action is necessary to comply with the rules of natural justice), this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader. Letters which, for example, create legal obligations

or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

## **10. PUBLICITY AND PRESS RELEASES**

- 10.1 In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. The Government has issued a **Code of Recommended Practice on Local Authority Publicity** and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity. Further guidance on publicity and extracts from the Code are contained in the guidance note to members '**Use of Council Resources Guidance for Members**'. In particular members and officers should note that during the election period special rules apply with regard to local authority publicity
- 10.2 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity and any further guidance issued by the Chief Executive. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.
- 10.3 All press releases are issued through the Communications Office on behalf of the Council. Press releases are not issued by the Council on behalf of political groups. They can contain the comments of Executive members and committee Chairmen where they are speaking in connection with the roles given to them by Council. Officer's comments can be included on professional and technical issues.

## **11. INVOLVEMENT OF WARD COUNCILLORS**

- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members.

## **12. OFFICER/MEMBER PROTOCOL**

- 12.1 This protocol forms part of the local framework for standards of behaviour approved by the Governance and Audit Committee and adopted by the Council as part of the Constitution.
- 12.2 Monitoring compliance with this protocol is the responsibility of the Governance and Audit Committee and the Monitoring Officer.
- 12.3 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.



# **PART 5**

## **COUNCILLORS' ALLOWANCES SCHEME**



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## Further Guidance:

All enquiries regarding the Councillors Allowances Scheme should be made to Democratic Services.





**PART 5 SECTION A: HAVANT BOROUGH COUNCIL ALLOWANCES 2015-2020**

<b>Position</b>	<b>Allowance</b>
Basic Allowance (x38) (Incorporating a modernisation allowance of £461)	£5891
Leader (x1)	£14,800
Deputy Leader (x1)	£8,800
Cabinet Lead (x4)	£8,140
Scrutiny Board Chairman (x1)	£5,920
Development Management Committee Chairman (x1)	£3,577
Licensing Committee Chairman (x1)	£2,960
Governance and Audit Committee Chairman (x1)	£1,480
Joint HR Committee Chairman (alternate years, rotating with EHDC) (x1)	£1,973
Scrutiny Leads (x5)	£2,500
Group Leader* (x2)	£600 - £2,400

A Councillor may only receive 1 SRA at a time

No more than 50% of the number of Councillors can receive an SRA

Joint HR Committee Chairman and Vice Chairman rotates annually with EHDC.

\*Leaders of any political group, other than the ruling group, comprising two or more members to receive a Special Responsibility Allowance based upon the following formula:

Band A	2-5 members	£600
Band B	6-10 members	£1,200
Band C	11-15 members	£1,800
Band D	16+ members	£2,400

Prior to the next programmed independent review, annual consideration of minor allowance changes will take into account any pay changes applied to staff salaries.

## Additional Allowances

Mileage: To be maintained in line with the HMRC rate, currently 45p per mile. Passenger and cycle rates set at 5p per passenger and 20p per mile respectively. Claims to be made within six months of the date of travel. Claims may only be made to cover travelling costs incurred whilst carrying out approved council duties as a councillor. This does not include ward business or political activities, such as attending group meetings.

Taxi/Rail: There is a presumption in the scheme that, where practicable, councillors will pre-book rail journeys for council business via the council. Where this is not practicable, then a valid receipt/train ticket must be presented, along with reason for that journey.

Child care: up to £8.75 per hour.

Dependent relative care: up to the hourly rate for approved care providers within Hampshire County Council (currently £14.20 in 2015).

Claims for carers allowances must be accompanied with a receipt stating the date, hours worked and cost. Claims may only be made to cover the carer costs incurred whilst carrying out approved council duties as a councillor, such as attending council meetings.

Subsistence (meal) allowances: The council does not make subsistence allowances available for approved duties within the district. Maximum claims for meals to be maintained in line with the rates that can be claimed by officers, currently (2015):

- Breakfast = £5.73
- Lunch = £7.92
- Meal = £9.80

There is a presumption in the subsistence scheme that, where practicable, councillors will pre-book meals and accommodation through the council. Where this is not practicable, then the above subsistence rates are the maximum reimbursements, up to a maximum of £43 per day, including incidental subsistence costs.

This scheme was adopted by Havant Borough Council, after considering recommendations from the Independent Remuneration Panel on 17 February 2016 and amended by the Council on 13 April 2016.

Under current legislation a new scheme must be adopted every four years, following a review from an Independent Remuneration Panel. The next scheme must be in place by April 2020.

### **The Scheme**

The Havant Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1.0 This scheme may be cited as the Havant Borough Council Councillors' Allowances Scheme, and shall have effect from 1st April 2016 until such time as it is amended.

1.1 In this scheme:

"Councillor" means a councillor of the Havant Borough Council  
"Year" means the twelve months ending with 31st March.

### **Remuneration Panel**

2.0 The regulations provide that a local authority, in setting its scheme of allowances, shall have due regard to the recommendations of an independent remuneration panel.

2.1 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.

2.2 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.

2.3 An independent remuneration panel shall produce a report in relation to the members of each district, county or London borough council in respect of which it exercises functions making recommendations:

- (a) as to the amount of basic allowance which should be payable to such members;
- (b) as to the duties in respect of which such members should receive a special responsibility allowance and as to the amount of such an allowance; and
- (c) as to whether the allowance scheme of such district, county or London borough council should include allowances in respect of the expenses of arranging for the care of children or dependants of such members.

2.4 Where a district, county or London borough council receives a copy of a report made to them by an 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.

2.5 The Independent Panel must review the allowances scheme at least every four years.

#### Attendance Allowances

3.0 No attendance allowances are payable.

#### Renunciation

4.0 A councillor may by notice in writing given to the Section 151 Officer to elect to forego any part of his/her entitlement to an allowance under this scheme.

#### Part-Year Entitlements

5.0 The provisions of this paragraph 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.

5.1 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.

- 5.2 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.
- 5.3 Where this scheme is amended as mentioned in sub-paragraph 5.1, and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph 5.1(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.
- 5.4 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.
- 5.5 Where this scheme is amended as mentioned in sub-paragraph 5.1, and a councillor during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 5.1(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.

### Claims and Payments

- 6.0 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.
- 6.1 Payments shall be made
- (a) in respect of basic and special responsibility allowances, subject to paragraph 5.0, 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 10th day of that month.
- 6.2 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.
- 6.3 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.

### **Approved Duties**

7.0 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.



**TRAVELLING ALLOWANCES**

- 1.0 In respect of approved duties performed away from the councillors usual place of residence (no minimum mileage limitation)
- (a) 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.

- 1.1 (Amended with effect from 1 April 2016)

The rate for travel by a councillor's own private vehicle, or one belonging to a member of his family or otherwise provided for his use shall not exceed:

- (i) For the use of a motor car 45p per mile
- (ii) For the use of a bicycle 20p per mile
- (iii) 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 2.0p a mile.
- (iv) Any expenditure incurred on tolls, ferries or parking fees, including overnight garaging will be reimbursed subject to receipts being provided.

NB these rates are set at the Inland Revenue approved rates and will be revised in line with any changes.

**IMPORTANT - SEE SECTION H. FOR NOTE ON INSURANCE WHILE ON COUNCIL BUSINESS**

- 1.2 Where a member uses public transport to travel to approved duties they shall claim at standards rates on production of receipts. However, if there are exceptional circumstances when it is difficult to use public transport at standard rates or otherwise then a member must get prior agreement from the relevant Director to use other forms of transport, such as taxis or aeroplanes.
- 1.3 Rail tickets are available from Democratic Services for all rail journeys provided three days' notice is given.
- 1.4 The Council has made no provision for travelling to meetings from outside the UK.

- 1.5 The Monitoring Officer (or in their absence the Chief Executive or the S 151 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.
- 1.6 Where two or more councillors are attending the same event car transport should be shared wherever practicable.



**PART 5 SECTION D: SUBSISTENCE ALLOWANCE FOR OUTSIDE THE BOROUGH**

**SUBSISTENCE ALLOWANCE OUTSIDE OF THE BOROUGH**  
**(from 1 April 2016)**

- 1.0 Wherever possible a member shall organise their meals and accommodation through the Council who will pre-book and pre-pay.
- 1.2 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.
- 1.3 Where meals can not 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
- 1.4 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.
- 1.5 No subsistence allowances are payable for attending approved duties within the Borough.



## **PART 5 SECTION E: CHILD CARE AND DEPENDANTS' CARERS' ALLOWANCE**

- 1.0 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.
- 1.1 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.
- 1.2 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.
- 1.3 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 1.1 may be allowed exceptionally with the agreement of the Section 151 Officer.
- 1.4 Claims forms are available from Payroll and should be submitted on a monthly basis.
- 1.5 Relevant meetings for this purpose are all approved duties in Section B paragraph 7.



## PART 5 SECTION F: ATTENDANCE AT CONFERENCES

Full details are set out in the individual sections of this booklet - this is a summary.

### Conference Fee

- 1.0 The conference fee will be booked directly by Council officers following approval of attendance by the Council.

### Travelling, Accommodation and Subsistence

- 2.0 See Sections C and D.

### Approval to Attend Conferences

- 3.0 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 S 151 Officer) in consultation with the relevant Cabinet Lead(s); relevant travelling and subsistence also being payable.
- 3.1 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 Scrutiny;
  - (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.





**Claims**

- 1.0 Claim forms and application forms for railway tickets may be obtained from the Payroll) to whom enquiries about all councillor's allowances should be made in the first instance.
- 1.1 Payment will be made monthly direct to a bank or building society unless a councillor certifies that they do not have such account.
- 1.2 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. Inspector of Taxes, who will provide a code number which will take the expenses into account. 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 if in any one month, the allowances paid are £453 or more. A guide to the inter-relationship of the Councillors Allowances scheme with Income Tax and Benefits system can be borrowed from Payroll.
- 1.3 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 complete in every respect and sign all forms of claim, including times and amounts claimed.
- 1.4 Completed claims received by Payroll will be paid at the end of the month, provided they have been submitted by the 10th day of that month.

**Publication of Claims**

- 2.0 As soon as is reasonably practicable after the end of a year to which a scheme relates, a district, county or London borough council shall make arrangements for the publication within the authority's area of 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 5 SECTION H: INSURANCE

The Council provides cover for councillors (which includes co-opted members) as follows:

### Third Party Cover

- 1.0 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.

### Employers' Liability Cover

- 2.0 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.

### Motor Insurance

- 3.0 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).

### Personal Accident

- 4.0 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.

### Slander and Libel

5.0 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).

### **NO INSURANCE COVER IS HELD BY THE COUNCIL FOR THE FOLLOWING ACTIVITIES OF COUNCILLORS:-**

- 6.0 No cover exists for costs awarded against councillors in actions against them for alleged dereliction of duty (e.g., mandamus, etc.).
- 6.1 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.
- 6.2 There is no cover for money in the possession of councillors. An example is the Mayor's Appeal Fund.
- 6.3 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.

# Glossary of Terms





## **GLOSSARY OF SOME OF THE TERMS USED IN THE CONSTITUTION**

<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>Background Papers</b>	Papers which relate to agenda items and meetings and which must be referred to in the reports with the agenda and available for inspection by the public, in accordance with the Access to Information Rules.
<b>Budget</b>	All the financial resources allocated to different services and projects.
<b>Cabinet Lead</b>	Councillor who is Cabinet Lead and is delegated specific responsibilities by the Leader of the Council
<b>Call-in</b>	A mechanism, which allows the Scrutiny Board to examine, and challenge, an Executive decision before it is implemented
<b>Chairmen of Committees</b>	The Councillors appointed each year by the Council to act as chairmen of the committees of the Council
<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; also known as the Section 151 officer.
<b>Chief Officers</b>	The most senior Council staff who are responsible for managing each of the Council's departments.
<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>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>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 Procurement Rules</b>	The rules which set out how the Council buys good 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 and Cabinet Forward Plan</b>	A list of all major decisions to be made by Council and key decisions to be made by Cabinet.
<b>Councillor</b>	A person elected by voters to be a member of the Council. Also known as a member of the Council.
<b>Development Management Committee</b>	The committee of councillors which makes planning decisions (not delegated to officers) on behalf of the Council.
<b>Executive</b>	The Leader of the Council and up to 9 councillors selected by the Leader, responsible for carrying out most of the local authority's functions.
<b>Executive Board</b>	The meeting of Chief Officers.
<b>Executive Functions</b>	The functions which are the responsibility of the Leader of the Council or if he or she decides by the executive, individual executive members or officers.
<b>Executive Member</b>	Leader of the Council, Deputy Leader of the Council and other Cabinet Leads (i.e. all members of the Cabinet)
<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 Standing Orders.
<b>Financial 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 Rules. The period of five days not counting: <ul style="list-style-type: none"> <li>• the day of the meeting</li> </ul>

- the day on which the meeting is called
- days which fall at the weekends, public holidays or bank holidays (i.e. when the Council offices are not normally open).

**Governance & Audit Committee**

The Governance & Audit Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.

**Group Leaders**

People appointed by a political group to act as the leader of that group of councillors.

**Head of Paid Service**

The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.

**Joint Committee**

A committee appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.

**Key Decision**

A decision by the Leader, Cabinet, Cabinet Lead or officer which is likely either to incur significant expenditure/make significant savings or to have a significant impact on local communities. The criteria used to identify Key Decisions are set out in the Access to Information Standing Orders.

**LA SAAC**

Local Authority (Scotland) Accounts Advisory Committee (LASAAC)

**Leader**

The person elected to carry out the executive functions of the Council.

**Licensing Committee**

The committee that makes carries out the Council's responsibilities under the Licensing Act 2003 Act and the Gambling Act.

The committee that makes decisions in relation to licenses that the Council's issue (except for matters to be considered by the Licensing Act 2003 committee).

**Local Choice Functions**

These are functions which by law the Council can choose to be either executive or non- executive functions.

**Mayor of the Council**

The councillor elected each year to act as Mayor of the Council.

**Monitoring Officer**

The officer charged with ensuring that everything that the Council does is fair and lawful.

<b>Officers</b>	The staff employed by the Council to work for it and make decisions on its behalf.
<b>Overview &amp; Scrutiny</b>	Providing support and advice to the Executive by contributing to the review and development of policy; holding the Executive to account by questioning, challenging and monitoring their performance.
<b>Policy Framework</b>	The plans and strategies, which have to be adopted by the full Council and in accordance with which the Leader of the Council, Cabinet, committees and officers must operate.
<b>Political Group</b>	Two or more councillors who have joined together and asked to be recognised as a political group.
<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>Quorum</b>	The minimum number of people who have to be present before a meeting can take place.
<b>Scrutiny and Policy Development Panels</b>	The scrutiny panels undertake reviews on behalf of the Scrutiny Board and report their findings to the Board.
<b>Scrutiny Board</b>	The Scrutiny Board acts as the principal overview and scrutiny body of the Council.
<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 Chief Finance Officer
<b>Standing Orders</b>	Detailed rules, which govern how the Council operates and how decisions are taken.
<b>Sub Committee</b>	A sub committee authorised to make executive and non executive decisions
<b>Virement</b>	Moving funds from one area of expenditure to another.

