

# **PART 2**

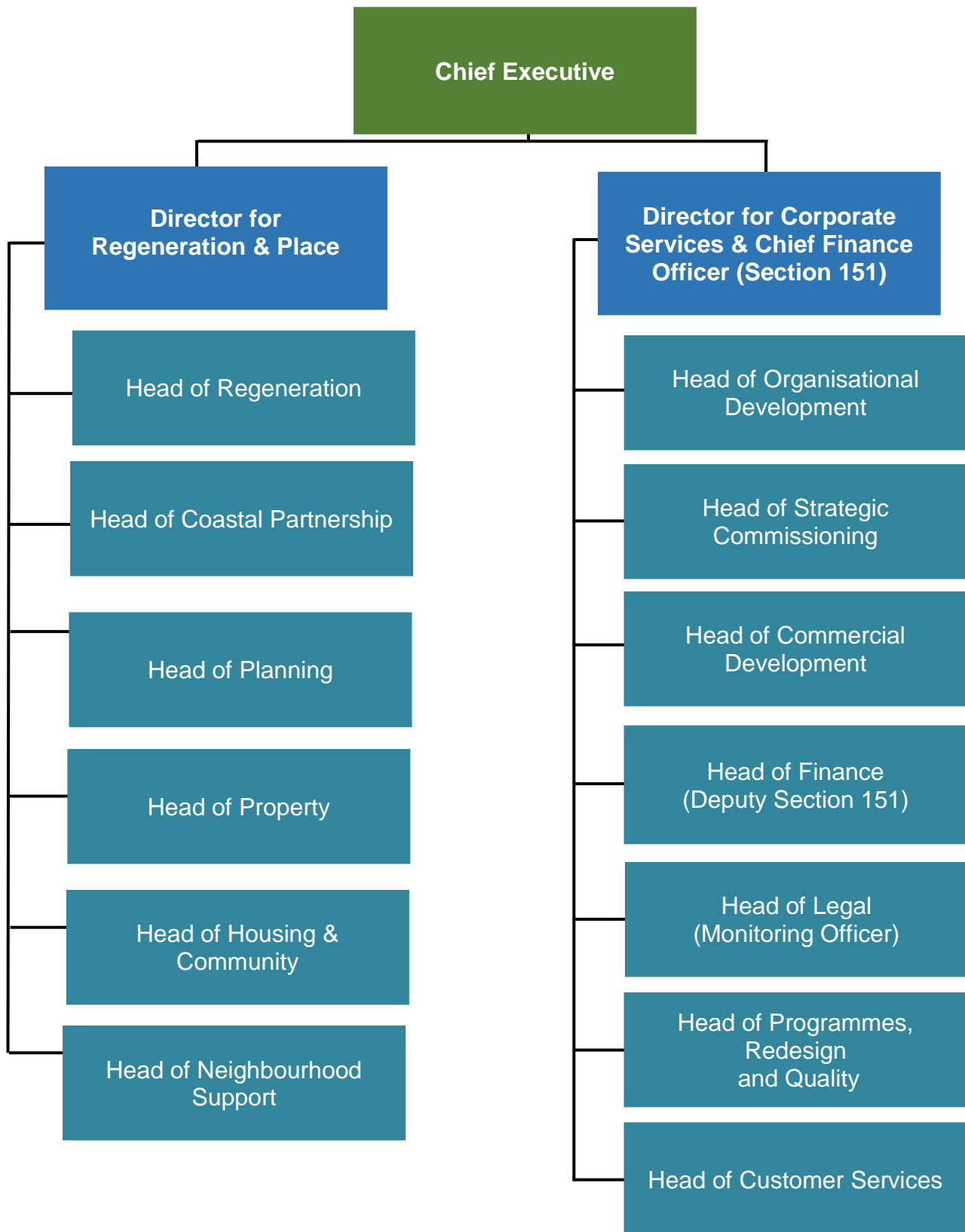
## **RESPONSIBILITY FOR FUNCTIONS**

# **Havant Borough Council CONSTITUTION**

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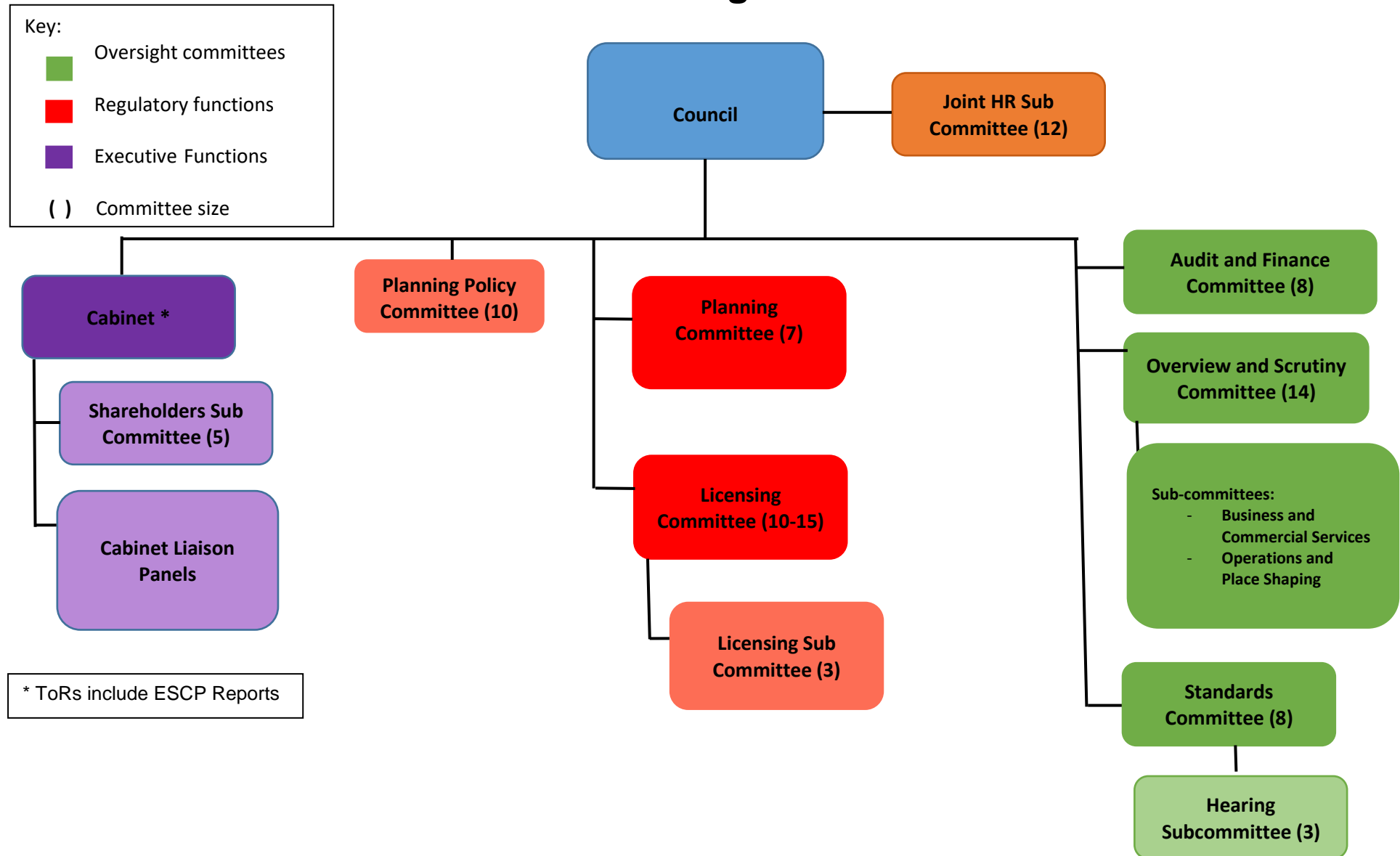
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**Management Structure**



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## Decision Making Structure



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### Section A - Introduction To Decision Making

- 1 The Council makes many decisions relating to matters within its area. This Part of the Council's Constitution sets out how these decisions are made so that members of the public are clear about what decisions are made and which part of the Council or individual has responsibility for particular types of decisions.
- 2 The Council's functions may be lawfully exercised by:
  - (a) The **Full Council**;
  - (b) The **Executive** (the collective term for the Leader, individual Cabinet members, the Cabinet or a committee of the Cabinet);
  - (c) Committees and sub-committees of the Full Council or the Cabinet;
  - (d) Joint Committees; and
  - (e) Officers.
- 3 All of the Council's functions are either "executive" or "non-executive". **Executive functions** are the responsibility of the **Executive** or one of its committees, sub-committees, joint committees, or an officer. **Non-executive functions** are the responsibility of the Full Council or one of its or one of its committees, sub-committees, joint committees, or an officer. "Functions" include all of the Council's powers and duties under legislation, that is, all of the activities the Council undertakes.
- 4 The **Executive** is the part of the Council which is responsible for most day-to-day decisions, including **key decisions**. The Executive is made up of the **Leader** and a number of executive Councillors (**Cabinet members**) selected by the Leader and which make up the **Cabinet**. The Executive might also establish committees and sub-committees. All key decisions will be published in advance in the Forward Plan in so far as they can be anticipated.
- 5 The Cabinet will ordinarily carry out all of the Council's **executive functions** that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally or allocate them to an individual Cabinet member or a committee of the Cabinet.
- 6 Under the Local Government Act 2000 ("the 2000 Act") functions are "**executive functions**", and the responsibility of the **Executive**, unless in law they are prevented from being exercised by the Executive. **Non-executive functions** (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to officers, planning and licensing. Non-executive functions may be delegated to committees, sub-committees or officers under Section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.
- 7 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular

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

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

## 9 Principles of decision-making

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

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

## 10 Record of decision-making

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

- (a) who took the decision (the person or body);
- (b) the details of the decision including the date it was made;
- (c) the reasons for the decision;
- (d) a summary of any alternative options considered and rejected by the officer, Councillor or decision-making body when the decision was made;
- (e) details of any conflict of interest relating to the matter declared by any member of the decision-making body or by a Councillor who is consulted by the officer or Councillor who made the decision; and
- (f) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer or Standards Committee.

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## 11 Types of decision and the decision-takers

- 11.1 When the **Full Council** makes decisions, it will comply with the [Council Standing Orders](#).
- 11.2 When the **Executive** makes decisions, these will comply with the [Cabinet Standing Orders](#).
- 11.3 When the Overview and Scrutiny Committee makes decisions, these will comply with the [Scrutiny Standing Orders](#).
- 11.4 When committees and sub-committees make decisions, these will comply with the [Committee Standing Orders](#).
- 11.5 On occasions, the Council, a Councillor or an officer will act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of an individual. When this happens, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.
- 11.6 Any area of responsibility that is not specifically listed under the matters reserved for Councillors in Sections B-F of this **Part 2** is deemed to be delegated to officers – **Designated Officers**.
- 11.7 **Part 2** Section B sets out the **non-executive functions** which are reserved to the **Full Council**.
- 11.8 **Part 2** Section C sets out the “local choice” functions, which are those that the Council can allocate to either the **Full Council** or the **Executive** for decision, and sets out which body has been allocated them.
- 11.9 **Part 2** Section D sets out the **executive functions** that are the responsibility of the **Leader**, individual **Cabinet members**, the **Cabinet** and any committees or sub-committees it establishes.
- 11.10 **Part 2** Section E sets out the **non-executive functions** which are reserved to the committees established by the **Full Council**.
- 11.11 **Part 2** Section F sets out the functions which are reserved to joint committees established by the Council.
- 11.12 **Part 2** Section G sets out the principles of the [Officer Scheme of Delegation](#) for all functions and powers not otherwise reserved to Councillors. Section H sets out functions reserved to the [Proper Officers](#) of the Council.

# Havant Borough Council CONSTITUTION

## PART 2

### Section B - The Council

#### 1 Functions of the Full Council

1.1 Only the Full Council will exercise the following functions:

- (a) Electing the Mayor and appointing the Deputy Mayor;
- (b) Electing the Leader of the Council each year;
- (c) Appointing to such other offices and/or positions as may be required under this Constitution or by law;
- (d) Agreeing and/or amending the terms of reference for committees, deciding on their composition, allocating the chairmen and vice-chairmen for each Council committee (and, where required, their political balance);
- (e) Agreeing the basis on which appointments to outside bodies should be made and appointing to outside bodies except where appointment to those bodies is an **executive function** or has been otherwise delegated;
- (f) Adopting the Constitution and making significant changes to the Constitution, including agreeing and/or amending the [Officer Scheme of Delegation](#) with respect to **non-executive functions** except where specifically delegated to the Monitoring Officer;
- (g) Approving and adopting the [Budget and Policy Framework](#);
- (h) Approving the Council's Budget and levying Council Tax (NB. the setting of rents and service charges for Council properties to be determined by the Cabinet);
- (i) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates within the Treasury Management Strategy Statement;
- (j) Making or revising a Council Tax Reduction Scheme;
- (k) Approval of the Community Infrastructure Levy Charging Schedule;
- (l) Making decisions about any matter in the discharge of an **executive function** where the **Cabinet** is minded to make the decision contrary to the Policy Framework or not wholly in accordance with the Budget (subject to urgency procedures contained in the [Budget and Policy Framework Standing Orders](#) in **Part 3**);
- (m) Considering any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the **Executive** and the Council cannot make a decision in relation to it);
- (n) Determining any matter which is properly referred to it for determination by a committee or sub-committee in relation to **non-executive functions**;

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- (o) Adopting and/or amending a [Councillors' Allowances Scheme](#) following a report from the Independent Remuneration Panel;
- (p) Changing the name of the area, and conferring the title of Honorary Alderman or Freedom of the Borough (as an Honorary Freeman);
- (q) Approving the Annual [Pay Policy Statement](#);
- (r) Making payments or providing other benefits in cases of maladministration under Section 92 of the Local Government Act 2000;
- (s) Appointing the **Head of Paid Service**, designating an officer to act as **Monitoring Officer** and an officer to act as **Chief Finance Officer (Section 151 Officer)** and dismissing the Head of Paid Service, Chief Finance Officer (Section 151 Officer) or Monitoring Officer;
- (t) Appointing the Electoral Registration Officer and Returning Officer;
- (u) Approving the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of Council functions;
- (v) Designating streets for street trading under the Local Government (Miscellaneous Provisions) Act 1982;
- (w) Determining whether functions which are classified as "Local Choice" functions should be reserved to the **Full Council** or exercised by **Cabinet**;
- (x) Adopting the Council's [Code of Conduct for Councillors](#), [Code of Conduct for Officers](#) and the [Councillor Officer Protocol](#);
- (y) Adopting (or otherwise) Motions submitted in accordance with the [Council Procedure Rules](#) except those that relate solely to an **executive function**;
- (z) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (za) Approving Development Plan Documents (DPDs) prior to submission to the Secretary of State;
- (zb) Approving any application to the Secretary of State in respect of any Housing Land Transfer pursuant to the Housing Act 1985;
- (zc) Opting into arrangements for an appointing person or appointing an Auditor Panel pursuant to the Local Audit and Accountability Act 2014 to select an external auditor, manage the relationship and provide advice and recommendations to the Audit and Finance Committee;
- (zd) Discharging all licensing functions and such other matters which must be reserved to the Full Council as specified in the Licensing Act 2003 (the "Act"), or any Regulations published in relation to the Act or any other legislation or any statute or regulations amending, consolidating or replacing them including approving,

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reviewing and revising any Statement of Licensing Policy in relation to the Licensing Act 2003;

(ze) Discharging all functions which must be reserved to Full Council as specified in the Gambling Act 2005, or any other ancillary regulations or legislative provisions amending, consolidating or replacing the same, including:

- (i) approving and revising any Statement of Gambling Policy;
- (ii) resolving not to issue any casino premises licences in the next three years; and

(zf) All other matters which, by law, are reserved to the Council.

1.2 Where **Full Council** delegates functions to committees, sub-committees and decision making bodies under this Constitution, nominations to those committees, and changes to such nominations, shall be notified by the relevant Group Leader or Group Whip in writing or by email to the Director of Corporate Services and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant **political balance** and numerical allocations determined by Council in relation to the body in question.

1.3 **Non-executive functions** may still be exercised by the Council even where delegated to a committee, sub-committee, body or officer elsewhere in this Constitution, subject to specific exceptions (for example Licensing Sub-Committee).

## 2 Full Council Meetings

There are three different types of Full Council meeting:

- (a) The Annual Meeting of the Council, which will usually be held in May;
- (b) Ordinary meetings;
- (c) Extraordinary meetings, which will be called as and when required in accordance with the [Council Standing Orders](#).

All Full Council meetings will be conducted in accordance with the [Council Standing Orders](#).

## 3 Budget and Policy Framework

### 3.1 Budget Framework

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

- (a) Medium Term Financial Strategy;

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- (b) Treasury Management Framework (including relevant policies and strategies); and
- (c) Capital and Investment Strategies.

## 2.2 Policy Framework

- 2.2.1 By law, the Council must have a Policy Framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the **Full Council**, usually on the recommendation of the **Cabinet**, supplemented by other plans and strategies that the Council wishes to add.
- 2.2.2 The Policy Framework comprises:
  - (a) The Council's Corporate Strategy;
  - (b) The Havant Crime and Disorder Reduction Strategy;
  - (c) The Local Development Plan and Development Plan Documents;
  - (d) The Statement of Licensing Policy;
  - (e) The Statement of Gambling Policy; and
  - (f) Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by Full Council rather than the Cabinet.

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## Part 2

### Section C - Local Choice Functions

#### 1 Allocation of Local Choice Functions

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

Local Choice Functions		Decision Maker	Further Delegation
1	Any function under a Local Act not specifically excepted.	Full Council	
2	The determination of any appeal against any decision made by or on behalf of the Authority.	Planning Committee or Licensing Committee (as relevant)	Licensing Sub-Committee (if relevant)
3	Determination of appeals by employees of the Council in connection with dismissal, grievances and other issues arising in the course of their employment	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

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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 executive functions and the revocation of any such appointment.</p>	Cabinet	
9	<p>The appointment of any individual –</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(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 non executive functions and the revocation of any such appointment.</p>	Full Council	
10	<p>The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or section 330 of the Town and Country Planning Act 1990 as to interests in land</p>	Cabinet	Heads of Service
11	<p>The making of agreements with other local authorities for the placing of staff at the disposal of those authorities</p>	Joint Human Resources Committee	Heads of Service

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## Part 2

### Section D - Executive Functions

#### 1 Introduction

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

#### Composition

- 2.1 The **Cabinet** comprises the **Leader** of the Council together with up to nine other **Councillors**, all appointed by the Leader. **Cabinet members**, including the Deputy Leader, are appointed at the Annual Meeting of the **Full Council** at which the Leader is appointed. The Mayor and Deputy Mayor of the Council cannot be appointed to the Cabinet. No substitution arrangements will apply to the Cabinet.
- 2.2 The **Leader** and **Cabinet members** cannot sit on the Overview and Scrutiny Committee. They can sit on any other committees of the Council and can chair them, but Cabinet members should not be in a majority.
- 2.3 The **Leader** decides the scheme of delegation in respect of **executive functions** and may authorise the Cabinet, a committee of Cabinet, Cabinet members or officers to exercise executive functions from time to time.

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## The Leader

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

## The Deputy Leader

- 4.1 The Leader shall appoint a Deputy Leader who shall be a member of the Cabinet and deputise for the Leader and carry out the functions delegated to the Leader in periods of their incapacity or absence.
- 4.2 The Deputy Leader shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until:
- a) They resign from the office;
  - b) They cease to be a Cabinet member;

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c) They are removed from office by the Leader.

4.3 If for any reason the Leader is unable to act, or the office of Leader is vacant, and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place, or arrange for a Cabinet member to act in his/her place.

## Cabinet Members

5.1 Each Cabinet member will be appointed by the Leader to cover one of the specific portfolio responsibilities (other than those reserved to the Leader) determined by the Leader.

5.2 A Cabinet member shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until:

a) They resign from the office;

b) They cease to be a Councillor;

c) They are removed from office by the Leader.

## Individual Cabinet Member Decisions

6.1 Cabinet members shall have the responsibilities as determined by the Leader from time to time.

6.2 Cabinet members exercising executive functions may delegate those functions to officers.

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

## Proceedings of the Cabinet

7.1 Proceedings of the Cabinet shall be conducted in accordance with the [Cabinet Standing Orders](#).

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

## Joint Executive Arrangements

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

## General responsibilities of the Executive

9.1 The Executive is responsible for:

9.1.1 ensuring the effective and efficient discharge of the functions delegated to them



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

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

- 10.1 The following functions shall be exercised only by the **Executive** and will be taken by the Cabinet, or a committee or sub-committee appointed by it, unless the **Leader** chooses to exercise these functions personally or allocate them to an individual Cabinet member or a committee of the Cabinet.
- 10.2 Where the **Cabinet** is exercising an **executive function**, in whole or in part, as set out below, the Cabinet is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it subject to any restrictions or constraints imposed by the law or this Constitution.
- 10.3 Insofar as such functions do not fall within any responsibilities delegated to individual **Cabinet members**, the Cabinet is responsible for:
  - 10.3.1 the development of policy/strategy for the Council, the monitoring of the effectiveness of policy/strategy and the review of policy/strategy (leading to revision and further development)
  - 10.3.2 subject to consultation with the appropriate Scrutiny body or bodies, advising on Budget setting, including all other relevant financial matters, plans and proposals
  - 10.3.3 ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs and the delivery of policy/strategy
  - 10.3.4 monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, and requiring or approving any remedial action to be taken where it considers it necessary and appropriate
  - 10.3.5 developing, monitoring and reviewing any Council Corporate personnel and human resources policies
  - 10.3.6 approving, monitoring and reviewing the provision of services to the Council which are delivered by internal and/or external suppliers

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- 10.3.7 overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally
  - 10.3.8 overseeing relationships with, participation in and contribution to external organisations and partnerships, Local Government Association, or their successors or like bodies
  - 10.3.9 ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively
  - 10.3.10 monitoring and reviewing issues relating to relating to the implementation of strategy and policy
  - 10.3.11 supporting any relevant regional arrangements relating to regional policy, transportation, planning and environmental issues
  - 10.3.12 promoting employment and investment in the Council's area, including the preparation and approval of any Economic Development and Tourism Strategies
  - 10.3.13 dealing with any executive Local Development Framework functions which are delegated to the Council by the Secretary of State
  - 10.3.14 promoting the Council's policies relating to climate change from time to time in force
- 10.4 The Cabinet may discharge these functions itself, through a Cabinet committee or sub-committee or by delegation to an officer. In addition, the Cabinet may appoint such advisory panels, including any Councillor, as it considers appropriate to provide advice to it.

### Responsibilities of all Cabinet Members

- 11.1 The following are the general responsibilities which apply to all **Cabinet members**, and the specific responsibilities which apply to individual Cabinet members. These responsibilities include various functions which are delegated to each Cabinet member to discharge.
- 11.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the **Cabinet member** with the primary responsibility shall take the lead and exercise their delegated powers, but in consultation with all Cabinet members with an interest.
- 11.2 Each **Cabinet member** is the spokesperson for the policy area or 'portfolio' they are responsible for. They also:
  - 11.2.1 lead on developing Council policy and make recommendations to the Cabinet
  - 11.2.2 provide guidance to the **Cabinet** on delivering services within their portfolio area
  - 11.2.3 give guidance to the Cabinet on budget priorities
  - 11.2.4 monitor performance and make sure policy is delivered
  - 11.2.5 lead on improving Council services
  - 11.2.6 ensure that activities meet the Council's overall vision, core values and guiding principles

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- 11.2.7 represent the Council at a national and local level
- 11.2.8 contribute to debate and decision-making
- 11.2.9 work with all Councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before relevant Overview and Scrutiny meetings and responding to Overview and Scrutiny Committee reports
- 11.2.10 make decisions within the responsibility of the Cabinet member's portfolio
- 11.2.11 ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

### Delegations to all Cabinet Members

- 12.1 Each **Cabinet member** has the following authority delegated from the **Leader**:
  - 12.1.1 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, up to a value of £500,000.
  - 12.1.2 To authorise public consultation on strategies and policies within the [budget and policy framework](#).
  - 12.1.3 To comment on behalf of the Council on consultation papers issued by Government or any other public body.
  - 12.1.4 To approve the response to be taken to service action plans, external inspection reports, monitoring reports, scrutiny reports, and post-implementation reviews.
  - 12.1.5 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.
  - 12.1.6. Powers within the [Contract Standing Orders](#)
  - 12.1.7 Determination of fees and charges for services in relation to **executive functions**.

### Specific Responsibilities of individual Cabinet Members

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

### The Leader

- 14.1 To chair the Cabinet.
- 14.2 To select the Cabinet members and determine their portfolios of responsibility.
- 14.3 To appoint committees and sub-committees of the Cabinet and to determine their powers.

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

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

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

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

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

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

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

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

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

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

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

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

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- 19.5 **Cabinet members** may refer a decision to the **Cabinet**.
- 19.6 **Cabinet members** may delegate a function or decision to an officer. If a function is so delegated, the Cabinet member shall complete a written record in the agreed form to be recorded in accordance with Council procedure.

### Procedure for Taking Individual Cabinet Member Decisions

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

### Committees of the Executive

- 20.7 The **Leader** or the **Cabinet** may delegate any of its functions to a committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Leader or the Cabinet may establish decision-making committees which may only include **Cabinet members**. The Leader or the Cabinet may establish advisory committees, the membership of which need not be limited to Cabinet members. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.
- 20.8 Committees established by the **Leader** or the **Cabinet** shall be empowered to perform these functions with immediate effect unless the Leader or the Cabinet impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Cabinet and all advisory or consultative liaison committees will continue in operation only until the

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first meeting of the Cabinet in the next civic year following their establishment when they must be expressly renewed or the cease to exist.

- 20.9 All functions that have been delegated to a committee established by the Leader or the Cabinet can still be taken by the Cabinet as the parent body (where the Cabinet has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Cabinet member or an alternative committee of the Cabinet.
- 20.10 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to **Full Council** in due course for noting in the Council's Constitution.

## Section D 1 – Shareholders Sub-Committee

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

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

## Composition

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

## Quorum

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

## Reserves

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

## Competency

- 1.6 All members of the Shareholders Sub-Committee and Cabinet members attending as reserves must:
- (a) have undertaken mandatory training in the relevant law and procedures which relate to the Sub-Committee's work; and

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- (b) undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

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

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

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- (b) the approval as shareholder of the business plans of each of the Council's companies including providing strategic advice to the Cabinet on the robustness and suitability of each of the business plans;
- (c) any proposals to make a significant capital or revenue investment in any of the Council's companies; and
- (d) on any decisions that need to be made in relation to the overall commissioning arrangements.

- 2.7 To review and analyse the annual statement of accounts of each of the **Council's companies**.
- 2.8 To review any proposal by the **Council's companies** to submit a tender for services to a client other than the Council.
- 2.9 To determine the distribution of any surplus or the issue of any dividends from any of the **Council's companies**
- 2.10 To prepare and present a strategic report to the **Cabinet** at least once a year on the overall governance, financial and performance arrangements for the **Council's companies**.

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## Part 2

### Section E - Committees

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

- [Planning Committee](#)
- [Planning Policy Committee](#)
- [Licensing Committee](#)
- [Audit and Finance Committee](#)
- [Overview and Scrutiny Committee](#)
- [Standards Committee](#)

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

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## Part 2

### Section E 1 – Planning Committee

#### Committee Form and Structure

##### Committee Scope

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

##### Composition

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

##### Quorum

- 1.5 The Planning Committee quorum will be 3 Councillors.

##### Reserves

- 1.6 Each group may appoint reserve members.

##### Competency

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

#### Matters reserved for the Planning Committee

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

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- 2.2.1 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;
- 2.2.2 Submitted by or on behalf of a Councillor (or their spouse or partner) or by any member of the Council's staff (or their spouse or partner);
- 2.2.3 On Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Head of Planning, in consultation with the Chairman of the Planning Committee, determines should be subject to members' consideration;
- 2.2.4 Which the Head of Planning considers should be presented to Planning Committee for decision including for example, those developments that in their opinion are particularly controversial, likely to be of significant public interest, or which may have a significant impact on the environment; or
- 2.2.5 Where, within four weeks of its receipt by the Council, or within seven days of being notified that it is intended to grant permission for an application:
  - (a) Where five or more individual letters<sup>1</sup> - each raising material planning objections<sup>2</sup> have been received by the Council; and
  - (b) The local ward Councillor (or in the absence of the local ward Councillor the Chairman or Vice Chairman of the Planning Committee) requests in writing to the Head of Planning, giving good material planning reasons, that the application be determined by the Planning Committee and the referral is agreed by the Chairman of the Planning Committee, the Head of Planning and the Cabinet member with portfolio responsibility for Planning.
- 2.2.6 Under the Town and Country Planning Act 1990, Listed Building Consent, Conservation Area Consent and related matters and any other planning legislation concerning granting planning permission for development already carried out and without compliance with conditions previously attached;
- 2.2.7 Where the application is to vary or remove a condition that was imposed by the Planning Committee;
- 2.2.8 Where the development in question is materially contrary to the policies of an approved development plan or adopted planning policy approved by the Council;
- 2.2.9 Where a local ward Councillor has requested the breach of planning control be referred to Planning Committee for decision; or
- 2.2.10 Where a legal agreement relating to that development is required

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

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

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

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

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## Section E 1 A – Planning Policy Committee

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

### Composition

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

### Quorum

- 1.3 The Planning Committee quorum will be 6 Councillors.

### Reserves

- 1.4 Reserve members are not permitted.

### Competency

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

### Matters reserved for the Planning Policy Committee

- 2.1 To formulate the Havant Borough Council Local Plan for referral to the Planning Committee for consideration and approval for public consultation
- 2.2 To formulate the draft Havant Borough Council Supplementary Planning Documents for referral to the Planning Committee for consideration and approval for public consultation
- 2.3 To formulate the draft Havant Borough Council Community Infrastructure Levy (CIL) charging schedule and draft spending protocol for referral to the Planning Committee for consideration and approval for public consultation
- 2.4 To receive reports, expert advice and opinion on planning policy issues and to consider and make recommendations.

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## Part 2

### Section E 2 - Licensing Committee

#### Committee Structure

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

#### Composition

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

#### Quorum

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

#### Reserves

- 1.6 Each group may appoint reserve members.

#### Competency

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

#### Matters reserved for the Licensing Committee

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

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

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

- 2.2.1 To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
- 2.2.2 To determine applications to vary designated premises supervisors following police objections;
- 2.2.3 To determine applications for transfer of premises licences following police objections;
- 2.2.4 To consider police objections made to interim authority notices;
- 2.2.5 To determine applications for club premises certificates where relevant representations have been made;
- 2.2.6 To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
- 2.2.7 To determine valid applications for review of club premises certificates;
- 2.2.8 To decide whether to give counter notices following police objections to temporary event notices;
- 2.2.9 To determine applications for grants of personal licences following police objections;
- 2.2.10 To determine applications for renewals of personal licences following police objections;
- 2.2.11 To determine applications for grants of personal licences with unspent convictions;
- 2.2.12 To determine applications for grants of personal licences with convictions of offence during the application process;
- 2.2.13 To decide on revocation of personal licences where convictions come to light after grant;
- 2.2.14 To determine valid applications for review of premises licenses.

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## 2.3 Functions under the Gambling Act 2005 alone:

- 2.3.1 To determine applications for variations of premises licences where relevant representations have been made;
- 2.3.2 To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- 2.3.3 To determine applications for the re-instatement of premises licences where relevant representations have been made;
- 2.3.4 To decide whether to give counter notices following objections to temporary use notices;
- 2.3.5 To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;
- 2.3.6 To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;
- 2.3.7 When the licence holder requests a hearing, to determine orders removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;
- 2.3.8 To determine applications for the grant or variation of licensed premises gaming machine permits for 2 or more machines;
- 2.3.9 To determine applications for the grant of temporary event notices where relevant representations have been made;
- 2.3.10 To determine applications for the grant of street trading licenses where relevant representations have been made;
- 2.3.11 To determine applications for the grant of pavement café licenses where relevant representations have been made;
- 2.3.12 To determine valid applications for review of premises licenses.

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

- 3.1 The Licensing Committee and its sub-committees have all the functions which are stated not to be the responsibility of the Council's **Executive** in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S.I. 2853, as amended, or further amended, in any statute or subordinate legislation. The sub-committees' remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments, dog breeding establishments, hackney carriage licenses (including vehicle and drivers licenses); private hire licenses (including vehicle, drivers and operators licenses and school transport drivers' licences); licensing marriage and entertainment and shops and food premises.

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- 3.2 The Licensing Committee make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.
- 3.3 Non-Statutory Licensing Functions reserved to the Licensing Committee:
- 3.3.1 To consider
- (a) whether or not to suspend, and/or
  - (b) revoke, and/or
  - (c) refuse to renew, and/or
  - (d) amend any conditions of any existing licence/permit/consent in any case which is referred to the Licensing Committee by the relevant **Designated Officer** where the holder has been:
    - (i) convicted of an offence involving dishonesty, indecency or violence, and/or
    - (ii) convicted of an offence or has failed to comply with the statutory provisions relating to the issue of any licence/permit/consent, or
    - (iii) in breach of any conditions attached to the issue of any licence/permit/consent, and/or
    - (iv) any other reasonable cause.
- 3.3.2 To determine applications for grants of licence/permit/consent with unspent convictions;
- 3.3.3 To determine applications for grants of licence/permit/consent with convictions of offence during the application process.
- 3.4 The Licensing Committee has the power to make final decisions on behalf of the Council in relation to its functions in this part.

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## Part 2

### Section E 3 - Audit and Finance Committee

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

#### Composition

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

#### Quorum

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

#### Reserves

- 1.5 Each group may appoint reserve members.

#### Competency

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

### Matters reserved for the Audit and Finance Committee

#### Governance, Risk and Controls

- 2.1 The Committee has the right to access to all the information it considers necessary to undertake the work of the Committee and may receive reports and refer matters to Internal and External Auditors.
- 2.2 To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances, including the **Code of Corporate Governance**.
- 2.3 To review and approve the **Annual Governance Statement** and consider whether it properly reflects the risk environment and supporting assurances, taking into account

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internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.

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

### **Internal Audit**

- 3.1 To ensure that the Council has a sound system of internal control which -
  - (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
  - (b) ensures that the financial and operational management of the Council is effective;
  - (c) includes effective arrangements for the management of risk;
  - (d) ensures compliance with policies, procedures and statutory requirements; and
  - (e) safeguards the Council's assets and interests.
- 3.2 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- 3.3 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 3.4 To approve significant interim changes to the risk-based internal audit plan and resource requirements.

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- 3.5 To make appropriate enquiries of both management and internal audit to determine if there are any inappropriate scope or resource limitations.
- 3.6 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal audit. To approve and periodically review safeguards to limit such impairments.
- 3.7 To consider reports from the internal auditor on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
- a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
  - b) Regular reports on the results of the Quality Assurance and Improvement Programme;
  - c) Reports on instances where the internal audit function does not conform to the **Public Sector Internal Audit Standards** and **Local Government Application Note**, considering whether the non-conformance is significant enough that it must be included in the **Annual Governance Statement**.
- 3.8 To consider the internal auditor's annual report:
- a) The statement of the level of conformance with the **Public Sector Internal Audit Standards** and **Local Government Application Note** and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit
  - b) The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the **Annual Governance Statement**
- 3.9 To consider summaries of specific internal audit reports as requested.
- 3.10 To receive reports outlining the action taken where internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 3.11 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- 3.12 To consider a report on the effectiveness of internal audit to support the **Annual Governance Statement**, where required to do so by the Accounts and Audit Regulations
- 3.13 To provide free and unfettered access to the Audit and Finance Committee Chairman for the internal auditor, including the opportunity for a private meeting with the Committee.

### External Audit

- 4.1 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by **PSAA** or the authority's auditor panel as appropriate.

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- 4.2 To consider the external auditor's annual audit letter, relevant reports, and the report to those charged with governance.
- 4.3 To consider specific reports as agreed with the external auditor.
- 4.4 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 4.5 To commission work from internal and external audit.
- 4.6 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### Financial Reporting

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

### Accountability Arrangements

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

### Related Functions

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

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- 7.4 To review any issue referred to it by the **Chief Executive, Chief Finance Officer, Monitoring Officer** or any Council body.

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### Section E 4 - Overview & Scrutiny Committee

The Council fully supports the role of its Overview and Scrutiny Committee in holding the **Cabinet** and others to account in discharging their functions and in policy formulation. The Council believes that the important parts of the role are:

- (i) to assist the **Full Council** and **Cabinet** in reviewing its major plans, policies and strategies, which will set the climate in which the Cabinet and other decision-making bodies are required to operate;
- (ii) to assist with policy formulation;
- (iii) to undertake specific reviews of the Council's organisation and service provision so that improvements can be made to service delivery.

### Composition

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

### Quorum

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

### Matters reserved the for Overview and Scrutiny Committee

The Overview and Scrutiny Committee:

- 2.1 will discharge the Council's functions under section 9F Local Government Act 2000;
- 2.2 will be responsible for the Council's scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny in accordance with the objectives of the Council Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law. At the first meeting each year of the Overview and Scrutiny Committee, it will consider and agree the work programme.
- 2.3 may establish such sub-committees or task and finish groups, appointing the Chairman in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis. At the first meeting each year of the Overview and Scrutiny

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Committee, it will establish sub-committees or task groups and confirm the terms of reference ([set out in the hyperlink here](#)) specifically to consider the following areas (based on relevant existing portfolios of Portfolio Holders at the beginning of the municipal year) as an element of the Committee's annual work programme, and to report back to the Overview and Scrutiny Committee on any recommendations:

- Business and Commercial Services, including any relevant strategic partnerships
- Operations and Place Shaping, including regeneration issues.

- 2.4 will, as part of the overall role, ensure the Chief Executive and Corporate Leadership Team discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function
- 2.5 will scrutinise decisions of or actions taken by the **Cabinet**, and offer advice or make recommendations on the matter under scrutiny once the Committee has considered the issues
- 2.6 may scrutinise matters coming before **Cabinet** for decision and respond appropriately to the Cabinet on the matter once the Committee has considered the issues fully
- 2.7 will review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the **Cabinet** and make reports or recommendations to the **Full Council**, or appropriate body of the Council
- 2.8 may refer to the Council or appropriate committee/sub-committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the **Full Council** or the committee or sub-committee and may, if requested, offer any views or advice to the **Cabinet** in relation to any matter referred to the committee for consideration
- 2.9 may undertake reviews with a cross-service approach wherever possible and make reports and recommendations to the **Full Council** (or other appropriate Council body) or the **Cabinet** to assist in the review of policies and strategies
- 2.10 may offer advice and make recommendations to the appropriate body of the Council on the review of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task Group
- 2.11 in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations
- 2.12 may review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the **Cabinet** or appropriate body of the Council of its findings
- 2.13 may advise the **Cabinet** and **Full Council**, as appropriate, of the Committee's response to the formulation of the Council's Budget and performance management reports
- 2.14 may recommend that a decision made but not yet implemented, and taken in respect of a function which is the responsibility of the **Cabinet** be reconsidered by the Cabinet
- 2.15 may scrutinise decisions after implementation to examine their effect and outcomes

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- 2.16 may make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants
- 2.17 may review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice
- 2.18 may give partner authorities notice in writing requiring them to have regard to the report or recommendations of the Committee in exercising their functions
- 2.19 may invite expert witnesses, Councillors, officers and partners to answer questions
- 2.20 will ensure, in conjunction with the Standards Committee, that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance
- 2.21 will consider and advise the **Cabinet** in respect of "call-in" notices under the Council's relevant procedures.
- 2.22 will work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.
- 2.23 will create Task Groups and set their Terms of Reference, to fulfil the Overview and Scrutiny requirements of the Council and the Annual Overview and Scrutiny Work Programme.
- 2.24 will approve an Annual Overview and Scrutiny Work Programme, to be kept under review and updated as required.
- 2.25 will produce an Annual Report to **Full Council** for the scrutiny process.
- 2.26 will report to **Full Council** as required on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- 2.27 will discharge the Council's functions in relation to the reduction of crime and disorder scrutiny pursuant to the Crime and Disorder Act 1998.

# Havant Borough Council CONSTITUTION

## Part 2

### Section E 5 - Standards Committee

#### Composition

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

#### Quorum

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

#### Reserves

- 1.5 Each group may appoint reserve members.

#### Competency

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

#### Matters reserved for the Standards Committee

- 2.1 To assist the Council in fulfilling its duty under the Localism Act 2011 to promote and maintain high standards of conduct by Councillors and co-opted Councillors of town and parish councils.
- 2.2 To advise the Council on the adoption or revision of its [Code of Conduct for Councillors](#).
- 2.3 To monitor and advise the Council about the operation of its Code of Conduct for Councillors the light of best practice and any changes in the law.
- 2.4 To approve the arrangements for dealing with allegations that a Councillor or a town/parish Councillor within the district has failed to comply with the relevant Councillors' Code of Conduct.
- 2.5 To determine whether a Councillor or town/parish Councillor has failed to comply with the relevant Code of Conduct.
- 2.6 Where the Committee finds that a failure to comply with the Code of Conduct has occurred, to determine what action, if any, to take and to apply the sanction or recommend to Council to apply an appropriate sanction.

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- 2.7 To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011 and independent persons under other secondary legislation.
- 2.8 To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the **Monitoring Officer** or to appeal against a determination by the Monitoring Officer.
- 2.9 To advise the Council on, and review as necessary, the arrangements for dealing with complaints or any local protocols regulating the conduct of Councillors and to deal with allegations of breach of any such protocol.
- 2.10 To respond on behalf of the Council to national reviews and consultations on standards related issues.
- 2.11 To consider and make recommendations to **Full Council** on any other matter that may be referred to the Standards Committee relating to the conduct and training of Councillors.
- 2.12 To consider amendments to the Constitution and recommend proposals to Full Council for approval, except where specifically delegated to the Monitoring Officer.

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## Part 2

### Section F Joint Arrangements

- 1.1 The **Full Council** may establish joint arrangements with other local authorities and/or their executives to exercise functions (which are **non-executive functions** in any of the participating authorities) or advise the Council. The **Leader** may establish joint arrangements for **executive functions**. Joint arrangements may include appointing joint committees.
- 1.2 Appointment of Councillors: 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.
- 1.3 If the joint committee is to discharge **non-executive functions**, it must be appointed by **Full Council** and appointments must reflect the **political balance** on the Council as a whole. If it is to discharge **executive functions**, it must be appointed by the **Leader**. He or she can only appoint **Cabinet members** to the joint committee (except where the joint committee involves five or more authorities or has to be set up under specific legislation). If it is to discharge a mix of non-executive and executive functions, it must be appointed by Full Council with the agreement of the Leader. In that case, if only one member is appointed, he or she can be, but need not be, a Cabinet member, but if more than one member is appointed then those appointed must include at least one Cabinet member, and the political balance rules do not apply. There are special rules for joint area committees, where the membership may be determined by the location of wards instead of political balance.
- 1.4 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.
- 1.5 The decision whether or not to accept the delegation of non-executive functions from another local authority shall be reserved to a Full Council meeting.
- 1.6 The decision whether or not to accept the delegation of executive functions shall be taken by the Leader.
- 1.7 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.
- 1.8 Joint Committees

Joint arrangements will include the Council's participation in the following joint committees:

- **East Hampshire District Council and Havant Borough Council Joint Human Resources Committee**
- **Independent Persons Panel**

# Havant Borough Council CONSTITUTION

## Part 2

### Section F 1 – East Hampshire District Council and Havant Borough Council Joint Human Resources Committee

#### Committee Structure and Delegations

The Joint Committee is established by East Hampshire District Council and Havant Borough Council (“the Councils”). The Councils operate a shared workforce at **chief officer** level.

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

#### Composition

- 1.1 The Joint Human Resources Committee will comprise 12 Councillors (6 from each Authority) in **political balance**.
- 1.2 The Chairman will be appointed by the Committee annually to be alternated between the Councils. The Vice-Chairman will be appointed by Committee annually and will be from the opposite Council to the Chairman.

#### Quorum

- 1.3 The Joint Human Resources Committee **quorum** will be 6 Councillors being 3 from each Authority.

#### Reserves

- 1.4 The Councils may appoint reserve members.

#### Competency

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

#### Matters reserved for the Joint Human Resources Committee

- 2.1 With regard to appointments and dismissals of the Councils’ **Statutory Officers**:
  - (a) To make recommendations to the employing Council on the appointment and dismissal of the **Head of the Paid Service**; and the dismissal of the **Chief Finance Officer** and **Monitoring Officer**.
  - (b) To consider matters relating to the conduct and capability of the **Head of the Paid Service**.

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- (c) To appoint, when required, an **Investigation and Disciplinary Committee** referred to in the JNC Conditions of Service for Chief Executives and chief officers; with power to:
- (i) appoint an independent investigator and independent advisors, if required;
  - (ii) determine whether or not the **Head of the Paid Service, Chief Finance Officer** and **Monitoring Officer** (the Statutory Officers) should be suspended pending investigation into allegations of misconduct or incapability; and
  - (iii) make a recommendation to **Full Council** to dismiss a Statutory Officer

Where the **Investigation and Disciplinary Committee** makes a recommendation to **Full Council** to dismiss a Statutory Officer the **Independent Persons Panel** must meet and consider the matter and prepare a report for Full Council before any decision to dismiss is considered by Full Council

- (d) Appoint a Panel of three Councillors from the Committee, including at least one **Cabinet member**, assisted by one independent adviser, to act as an Appraisal Panel (as required by the JNC Conditions of Service for Chief Executives and Chief Officers) for the **Chief Executive**.

2.2 With regard to appointments and dismissals of **chief officers**:

- (a) To exercise functions for the appointment and dismissal of **chief officers** to/from the employing Authority to include the appointment of a sub-committee for the purposes of appointments of chief officers (other than on an acting basis)

2.3 With regard to pensions matters, appeals and dismissals:

- (a) Agree payments in relation to termination of employment when required and any severance package exceeding £100,000;
- (b) To appoint Panels of three Councillors as appropriate to hear appeals against **chief officers** for dismissal or stage two of the Grievance Procedure whilst noting the role of the **Investigation and Disciplinary Committee** for the discipline of Statutory Officers; and
- (c) To appoint one Councillor to represent the Committee on any appeals against dismissal from Council's employment and appeals at stage two of the Grievance Procedure for officers below **chief officer** level.

2.4 To adopt new policy aims in respect of the following staffing matters:

- (a) Recruitment and resourcing;
- (b) Pay, pensions and other terms and conditions of employment;
- (c) Employee relations;
- (d) Learning;
- (e) Health and absence management;
- (f) Health and safety (in relation to Council staff and Council activities);

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- (g) Dignity at work/equal opportunities; and
- (h) Conduct of employees.

2.5 Other staffing matters:

- (a) Consider and respond to consultation requests in respect of national pay negotiations and determine pay awards; recruitment and resourcing.

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## Part 2

### Section F 2 – Independent Persons Panel

The Independent Persons Panel is established by East Hampshire District Council and Havant Borough Council (“the Councils”). The Councils operate a shared workforce at chief officer level.

The purpose of the Panel is to review the recommendations of [the Investigation and Disciplinary Committee](#) into Statutory Officer discipline and compile a recommendation of its own for consideration by the **Full Council**.

#### Composition

- 1.1 The Independent Persons Panel will comprise not less than two Independent Persons.
- 1.2 All of the Councils’ Independent Persons appointed pursuant to Section 28(7) of the Localism Act 2011 shall be invited to attend and, if at the relevant time there are fewer than two such Persons who are able to attend, then the Independent Persons appointed by another neighbouring council shall be invited to attend.
- 1.3 The Panel shall be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:
  - a) an Independent Person who has been appointed by the Council and who is a local government elector in the Council’s area;
  - b) any other Independent Person who has been appointed by the Council;
  - c) an Independent Person who has been appointed by another local authority or local authorities.

#### Competency

- 1.4 Independent Persons must have undertaken appropriate training.

#### Matters reserved for the Independent Persons Panel

- 2.1 The Independent Persons Panel is an advisory committee appointed by the Councils under Section 102(4) of the Local Government Act 1972 for the purpose of advising on matters relating to the dismissal of the officers designated as the **Head of Paid Service**, the **Chief Finance Officer** and the **Monitoring Officer** (the **Statutory Officers**) in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001, as amended.
- 2.2 The Independent Persons Panel will:
  - a) hear, consider, ask questions and comment in respect of **Statutory Officer** discipline or grievance that could lead to dismissal; and
  - b) make a report and recommendation to **Full Council** in accordance with the Councils’ policies and [Officer Employment Standing Orders](#).

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- 2.3 The Independent Persons Panel may meet concurrently with the **Investigation and Disciplinary Committee** where a hearing or meeting could result in a recommendation to **Full Council** for the dismissal of a Statutory Officer; or may meet separately.
- 2.4 The Panel shall have access to external legal and professional advice as necessary, via the **Monitoring Officer** (or Deputy Monitoring Officer as appropriate).

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## **Part 2**

### **Section G Officer Scheme of Delegation**

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

It is separated into four parts:

**Part 1 – Introduction**

**Part 2 – General Delegations**

**Part 3 – Delegations to chief executive and statutory officers**

**Part 4 – Proper Officer and specified officer functions**

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## Part 2

### Section G 1 - Introduction to the Officer Scheme of Delegation

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

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## General Principles Relating to Officer Delegation

- 10 For the purposes of officer delegated powers, both within this part and any other part of the Constitution, the term “Designated Officer” shall include the following officers:
- The Chief Executive
  - Director for Regeneration & Place
  - Client Relationship Director
  - Director for Corporate Services & Chief Finance Officer (Section 151 Officer)
- 11 This scheme gives the power for the Designated Officers to take decisions in relation to all the functions in their areas of responsibility except where:
- 11.1 a matter is prohibited by law from being delegated to an officer,
- 11.2 a matter has been specifically reserved to members or excluded from delegation by this scheme, by a decision of the **Full Council**, the **Cabinet/Executive** or a Committee or Sub-Committee.
- 12 No officer may take **key decisions** unless specifically provided for within the constitution or specifically delegated by the **Leader**, the **Cabinet**, a committee of Cabinet or a **Cabinet member**.
- 13 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers either:
- 13.1 through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). There is a full list of the [Local Schemes of Delegation](#) and you can look at any of the schemes in detail, or
- 13.2 through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the officer delegating the power with a copy supplied to the Monitoring Officer – there is a register of these [Specific Delegations](#). A Specific Delegation does not need to be given where an officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub-Committee.

## General limitations on exercise of powers

- 14 Any matters falling within the scope of the Scheme will be subject to any limitation, imposed by statute, by the **Full Council** or **Cabinet** and/or any duly authorised Committee. In addition, in exercising these powers each Designated Officer:
- 14.1 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 (Section 151 Officer) and/or the Monitoring Officer;

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- 14.2 Will not depart from any approved policies, scheme, or, any direction of the **Full Council** or **Cabinet** and/or appropriate Committee;
  - 14.3 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
  - 14.4 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.
- 15 No Designated Officer will:
- 15.1 Raise money by way of loan, rate or tax (save in relation to the Treasury Management Strategy pursuant to which specific functions are delegated to the **Chief Finance Officer**);
  - 15.2 Give approval to matters in respect of which approval is required by statute to be given by the Council;
  - 15.3 Make byelaws;
  - 15.4 Make orders relating to the compulsory purchase of land;
  - 15.5 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;
  - 15.6 Make Orders or Declarations relating to clearance areas, redevelopment areas or improvement areas;
  - 15.7 Declare or amend the policy framework objectives or the major policies of the Council;
  - 15.8 Make, alter or revoke standing orders; or
  - 15.9 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.

- 16 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 their powers under the Scheme, refer any matter to the Council, the Cabinet or Committee for decision.
- 17 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.
- 18 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.

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## Part 2

### Section G 2 General Delegations to Designated Officers

#### General

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

#### Incidental powers

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

#### Service Performance

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

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## Legal

- 4.1 To authorise, institute, prosecute, defend, compromise, or adjourn any form of legal proceedings or enforcement functions or statutory procedure and to make or defend any appeal in criminal or civil proceedings where such action is desirable to protect the Council's interests, subject to advice from Legal Services and the agreement of the **Monitoring Officer** as appropriate
- 4.2 Subject to the agreement of the **Monitoring Officer**, to authorise officers to prosecute or defend or to appear on the Council's behalf in proceedings before any Court or Tribunal
- 4.3 To prepare, issue and serve any statutory notice, demand, certificate, order, or requisition for information in respect of functions in their area, including the authentication of such documents save that the authentication of documents necessary for any legal procedure or proceedings is reserved to the **Monitoring Officer**
- 4.4 To authorise officers to enter and/or inspect any land or premises in respect of which the Council has a statutory power or duty to enter or inspect including the obtaining and enforcement of a search warrant
- 4.5 To authorise any officer exercising a power to enter and/or seize items found on premises to exercise the powers of seizure, to give the required notice and to perform the duties to return certain items seized and to secure certain items seized
- 4.6 To apply, or to authorise other officers to apply, to a Court for a warrant to enter any land or premises, in exercise of his/her responsibilities
- 4.7 To authorise the institution of any process or proceedings for administering or enforcing the functions of the Council
- 4.8 To certify that any document forms part of the records of the Council for the purpose of admitting that document as evidence in civil proceedings
- 4.9 To authorise the recovery by legal proceedings of any sum to which the Council is entitled
- 4.10 To take the action necessary to comply with any Court Order made against the Council
- 4.11 To appoint officers as authorised officers for any statutory purpose
- 4.12 To accept, hold and administer any property on trust (in consultation with the **Monitoring Officer** and **Chief Finance Officer (Section 151 Officer)**)
- 4.13 To supply photocopies of documents to the general public subject to making such charges as may be agreed in an approved scheme, subject to the provisions of the Copyright, Designs and Patents Act 1988

## Personnel Matters:

- 5.1 Exercising all Human Resources functions in accordance with agreed procedures and policies and subject to the agreement of the Head of Organisational Development as required, including:
- 5.2 Taking all decisions relating to changes to the establishment; save in relation to the **Executive Board** which is delegated to the Chief Executive. All such changes are to be

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contained within existing budgets and in accordance with agreed procedures and legislative requirements

- 5.3 Power to designate posts as casual or essential car users in accordance with agreed procedures
- 5.4 Power to defray expenses properly incurred by an officer of the Council
- 5.5 Extension of sickness pay (half and full pay) or extension beyond the national, provincial or local agreements
- 5.6 Approval of extension of special leave with pay
- 5.7 Extensions of accident pay beyond the national, provincial or local agreements
- 5.8 Grant of honoraria and where relevant ex-gratia payments to employees
- 5.9 Approval to changes to grades on various scales/conditions for all employee groups subject to the agreement of the Head of Organisational Development and save in relation to **chief officers** which is reserved to the Joint Human Resources Committee
- 5.10 Re-designation of posts subject to normal consultative procedures
- 5.11 Decisions not to reclaim financial assistance granted under the Post-Entry Training Scheme
- 5.12 To consider requests from employees to engage in any other regular employment for which payment is received
- 5.13 Decisions not to reclaim maternity pay
- 5.14 Deletion of vacant and creation of new posts
- 5.15 Appointments to posts in accordance with agreed procedures and pay scales, save in relation to **chief officers** which is reserved to the Joint Human Resources Committee
- 5.16 Power to authorise recruitment and retention terms for individual posts save in relation to **chief officers** which is reserved to the Joint Human Resources Committee
- 5.17 Disciplinary/capability action, save in relation to the **Executive Board** which is delegated to the **Chief Executive**, in accordance with agreed procedures. The Chief Executive shall act in accordance with the [Officer Employment Standing Orders](#).
- 5.18 Dismissals of officers, save in relation to **chief officers** which is reserved to the Joint Human Resources Committee. The power to approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme is delegated to the **Chief Finance Officer**, save in relation to **chief officers** which is reserved to the Joint Human Resources Committee.
- 5.19 Approval of settlements for individual post holders, at termination of employment or in legal proceedings including those reached by settlement agreement, subject to the approval of the Head of Organisational Development and save in relation to **chief officers** which is reserved to the Joint Human Resources Committee.
- 5.20 Exercising of discretions in accordance with Council policy pursuant to the Local Government Pension Scheme Regulations 2013

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- 5.21 Approval of payment of allowances to employees
- 5.22 Approval of more than 5 days carry-over of annual leave to the following leave year

## Administrative Matters

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

## Finance

- 7.1 Officers are referred to the [Financial Regulations](#) at Part Three of the Constitution

## Contracts

- 8.1 Officers are referred to the [Contract Standing Orders](#) Rules at Part Three of the Constitution

## Property Matters

- 9.1 Any decision concerning the management or use of land held for the operational requirements of the officers of a service area, subject to the following provisions
- 9.2 Powers to take any action or sign any document under the Land Registration Rules, including the release of mortgages or charges; and powers to give any undertaking are reserved to the **Monitoring Officer**
- 9.3 Subject to the agreement of the Head of Property, the power to acquire or dispose of any land or property with a capital value below £100,000 except by use of compulsory powers or in advance of identified requirements. The power to acquire or dispose of any land or property with a capital value equalling or exceeding £100,000 but less than £250,000 except by use of compulsory powers or in advance of identified requirements is reserved to the Director of Regeneration and Place
- 9.4 Subject to the agreement of the Head of Property, the power to take or grant a lease or licence of any land or property for any period where the rent is less than £100,000 per annum. The power to take a lease or licence of any land or property for any period where the rent equals or exceeds £100,000 per annum but is less than £250,000 is reserved to the Director of Regeneration and Place
- 9.5 Subject to the agreement of the Head of Property, the power to settle compensation for the loss of interests in land up to a maximum of £100,000 per interest where in the approved capital programme.
- 9.6 The power to survey land which the Council proposes to acquire compulsorily
- 9.7 The power to serve on any person occupying, having an interest in, or managing any land a notice requiring them to furnish the Council with information regarding the nature of their interest in the land and the name and address of others occupying, managing or having an interest in the land

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

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

### **Equalities and Public Health**

- 11.1 To have due regard, when carrying out any of the Council's functions, to the Council's Equal Opportunities Policy and the need to eliminate discrimination, harassment and victimisation and to promote equality of opportunity and foster good relations
- 11.2 Duty to make provision for disabled persons with needs who are members of the public or Council employees in Council premises including means of access, parking facilities sanitary conveniences and appropriate signage

### **Energy and Climate Change**

When carrying out any of the Council's functions:

- 12.1 To promote the Council's policies relating to climate change from time to time in force
- 12.2 To have regard to the most recent energy measures report from central government
- 12.3 To have regard to the HBC Strategy for the Environment, Climate Change and Energy.

### **Health and Safety**

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

### **Access to Information**

- 14.1 To comply with the duties and powers imposed by the [Access to Information Standing Orders](#)

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

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

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

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

### **Complaints**

- 17.1 To take action regarding complaints received
- 17.2 To settle any Ombudsman / Complaint Cases:
- (i) cases of alleged maladministration where there has not been a finding of maladministration by the Ombudsman
  - (ii) complaints that have been brought against the Council under any of its internal complaints procedures in conjunction with the Monitoring Officer
- 17.3 To approve compensation payments to remedy complaints in accordance with the Corporate Complaints Procedure and [Financial Regulations](#).

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

- 18.1 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.
- 18.2 The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or where required by the [Contract Procedure Rules](#).
- 18.3 The affixing of the Seal on documents shall be attested by any one of the following officers:
- (i) Chief Executive;
  - (ii) Monitoring Officer;
  - (iii) Chief Finance Officer;

or any officer authorised by them either in relation to a specific document or particular categories of documents.

# Havant Borough Council CONSTITUTION

## Part 2

### Section G 3 Delegations to the Chief Executive and Statutory Officers

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

A table of designated Proper Officers is set out below:

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

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

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

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- (f) Preparation of, and consultation on, the draft of the Forward Plan on a monthly basis
  - (g) The responsibility for the discharge of the Council's functions in implementation of statutory and non-statutory plans including the modernisation, collation, indexation and publication of policies and practices of the Council within the evolving Policy Framework as the **Full Council** and the **Executive** shall determine.
- 1.5 As required to exercise any function delegated to any other officer of the Council, with the exception of those functions delegated exclusively to the Council's **Chief Finance Officer (s151 Officer)** or the **Monitoring Officer**. Further, in the event of any dispute or doubt as to the delegated powers of any other Director, the Chief Executive shall have the authority to determine which **Designated Officer** is to exercise that power.
- 1.6 To provide the 'certificate of opinion' for an employee making application to the Standards Committee for exemption of his/her post from political restriction under section 3 of the Local Government and Housing Act 1989 (opinion as to whether the duties of the post involve regularly giving advice to members or speaking to journalists/broadcasters).
- 1.7 The authority to institute, defend or settle any legal proceedings or arbitration where urgent action is needed to protect the interests of the Council.
- 1.8 The power to determine that an emergency has occurred, namely, an event or situation which threatens serious damage to human welfare or to the environment in the District or war or terrorism which threatens serious damage to the security of the United Kingdom.
- 1.9 The power to incur expenditure and take any necessary action within local authority statutory functions, including jointly with other authorities, in the event of an emergency.
- 1.10 To nominate other senior officers of the Council, whether orally or in writing, to take administrative decisions in the event of an emergency.
- 1.11 In the event that the Chief Executive is absent or unable to act for any reason, the powers in paragraphs 1.8, 1.9 and 1.10 above may be exercised by any other **chief officer** who is available to act.
- 1.12 In the event that all members of the **Cabinet** are removed from office, to exercise all Cabinet functions in consultation with the Mayor of the Council until a new Cabinet has been appointed.
- 1.13 To discharge the functions of Electoral Registration Officer, electoral Returning Officer in local elections and Acting Returning Officer in parliamentary elections.
- 1.14 The review of electoral arrangements and District boundaries.
- 1.15 Taking all decisions relating to changes to the establishment for all staff including the **Executive Board** and **statutory officers**, such changes to be contained within existing budgets and in accordance with agreed procedures and legislative requirements.
- 1.16 To make all necessary amendments to the Council's human resources policies to ensure their accuracy, legal and best practice compliance in consultation with the Head of Organisational Development, Joint Human Resources Committee, Leader of the Council and relevant Portfolio Holder.

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- 1.17 To take disciplinary action, not including dismissal, against any members of the **Executive Board** or any statutory officer. In the case of the **Monitoring Officer** and **Chief Finance Officer** to act in accordance with [Officer Employment Standing Orders](#) in Part 3 of the Constitution and agreed procedures.

## Functions delegated to the S151 Chief Finance Officer (Director For Corporate Services)

- 1.1 To act as the Council's statutory Chief Finance Officer pursuant to section 114A Local Government Finance Act 1988 and carry out the responsibilities assigned to the Chief Finance Officer under the Council's [Financial Procedure Rules](#) and under the Constitution generally, including carrying out all **Treasury Management** activities.
- 1.2 To make arrangements for the proper administration of the Council's financial affairs in accordance with section 151 Local Government Act 1972.
- 1.3 To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 1.4 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.
- 1.5 To approve the detailed format of the financial plan and the revenue budget prior to approval by the **Full Council**.
- 1.6 To approve the annual calculation of the Council's Council Tax requirement in accordance with section 31A Local Government Finance Act 1992.
- 1.7 To report annually to Council on the robustness of the budget and adequacy of reserves as required by section 25 Local Government Act 2003.

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- 1.8 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to Council officers and members.
- 1.9 To report to members, in consultation with the **Monitoring Officer**, if there is or there is likely to be unlawful expenditure or an unbalanced budget as required by sections 111-116 Local Government Finance Act 1988.
- 1.10 To establish and maintain the general fund and collection fund of the authority in accordance with the provisions of the Local Government Act 1988.
- 1.11 To manage the capital programme flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources.
- 1.12 To approve the draft Council's Accounts and Accounting Policies by 30 June each year in accordance with the Accounts and Audit (England) Regulations 2015
- 1.13 To approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme, in accordance with agreed procedures, save in relation to **chief officers** which is reserved to the Joint Human Resources Committee.
- 1.14 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.
- 1.15 To provide financial information to the media, members of the public and the community

### Functions delegated to the Monitoring Officer (Head of Legal)

- 1.1 To act as the Council's statutory **Monitoring Officer** pursuant to section 5 and 5A Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Monitoring Officer under the Council's Constitution generally.
- 1.2 To ensure that the Council, its officers and its elected Councillors maintain the highest standards of conduct.
- 1.3 To contribute to the corporate management of the Council, in particular thorough the provision of professional legal advice.
- 1.4 To establish and maintain the [Code of Conduct for Councillors](#), dealing with the conduct that is expected of Councillors and co-opted members of the authority when they are acting in that capacity.
- 1.5 To establish and maintain a register of interests of Councillors and co-opted members of the authority in accordance with the provisions of the Localism Act 2011.
- 1.6 To contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 1.7 To receive and act on reports made by the Standards Committee.
- 1.8 To consider complaints against members referred to him including conducting investigations into matters as appropriate and the making of reports or recommendations in respect of them to the Standards Committee.

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- 1.9 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to Council officers and members.
- 1.10 To report to Councillors on any actual or potential breaches of the law or maladministration as required by section 5 Local Government Housing Act 1989.
- 1.11 To advise whether decisions of the **Cabinet** are in accordance with the budget and policy framework.
- 1.12 To be responsible for the maintenance and operation of the Council's Constitution. The Monitoring Officer has authority to make minor amendments and corrections to the Constitution to ensure that:
- (a) legislative references are updated;
  - (b) it reflects the Council's structures and decision-making requirements;
  - (c) consequential amendments are made as a result of Council and Cabinet decisions;
  - (d) it is clear and unambiguous and maintains efficiency of operations; and
  - (e) any other required changes are made as appropriate.

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

- 1.13 To advise and assist the Democratic Services Manager with the proper performance of the [Access to Information Standing Orders](#).
- 1.14 To fulfil the requirements of the 'qualified person' in relation to section 36 of the Freedom of Information Act 2000.
- 1.15 To approve applications to use the Council's Crest, Coat of Arms or Badge within the approved guidelines.

# Havant Borough Council CONSTITUTION

## Part 2

### Section G 4 - Proper officer and specified officer functions

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

Function	Legislative Provision	Proper Officer	Deputy
Reference in legislation to the "Clerk"	<b>Any legislation before October 1972</b>	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Appointment as Parish Trustee with Chair of Parish as body corporate for a Parish Meeting; The officer responsible for convening newly created Parish Councils	<b>Local Government Act 1972</b> Section 13(3)	Monitoring Officer	Democratic Services Manager
Witness and receipt of declaration of acceptance of office	<b>Local Government Act 1972</b> Section 83	Chief Executive	Monitoring Officer
Receipt of notice of resignation by Councillor	<b>Local Government Act 1972</b> Section 84	Chief Executive	Monitoring Officer
Declare any vacancy in office	<b>Local Government Act 1972</b> Section 86	Chief Executive	Monitoring Officer
Convening a meeting of Council to fill casual vacancy in office of Chair	<b>Local Government Act 1972</b> Section 88(2)	Chief Executive	Monitoring Officer
Receipt of notice of casual vacancy from two local government electors (Also for Parish and Community Councils)	<b>Local Government Act 1972</b> Section 89(1)(b) <b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305</b>	Chief Executive	Monitoring Officer
Signature of summons to council meetings	<b>Local Government Act 1972</b> Section 99 & Schedule 12 Para.4(1A)(b)	Chief Executive	Monitoring Officer

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Exclusion of reports, etc. from inspection	<b>Local Government Act 1972</b> Section 100B Schedule 12A	Monitoring Officer	Deputy Monitoring Officer
Written Summary where minutes would disclose exempt information	<b>Local Government Act 1972</b> Section 100C	Monitoring Officer	Deputy Monitoring Officer
Compilation of list of background papers	<b>Local Government Act 1972</b> Section 100D	Monitoring Officer	Deputy Monitoring Officer
Exclusion from production to Councillors of documents disclosing exempt information	<b>Local Government Act 1972</b> Section 100F	Monitoring Officer	Deputy Monitoring Officer
Receipt of money due from officers	<b>Local Government Act 1972</b> Section 115(2)	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Declarations and certificates with regard to securities	<b>Local Government Act 1972</b> Section 146(1)(a)	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
The officer having responsibility for the proper administration of the financial affairs of the Council.	<b>Local Government Act 1972</b> Section 151 Also <b>Local Government Finance Act 1988</b> Sections 112-116 and any reference in legislation before October 1972 to the "Treasurer" of a local authority	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Functions with respect to ordnance survey	<b>Local Government Act 1972</b> Section 191	Director for Regeneration and Place	Head of Neighbourhood Support
Charity functions	<b>Local Government Act 1972</b> Section 210	Chief Finance Officer (Section 151 Officer)	Deputy Section 151 Officer
Authorise officers to appear in legal proceedings	<b>Local Government Act 1972</b> Section 223 (Also Section 60 County Courts Act 1984)	Monitoring Officer	Deputy Monitoring Officer
Deposit of documents pursuant to the Standing Orders of either Houses of Parliament or to any enactments/instruments and any action as may be directed	<b>Local Government Act 1972</b> Section 225(1)	Monitoring Officer	Deputy Monitoring Officer
Certification of photographic copies of documents	<b>Local Government Act 1972</b> Section 229(5)	Monitoring Officer	Deputy Monitoring Officer
Authentication of documents	<b>Local Government Act 1972</b> Section 234(1)	Monitoring Officer	Deputy Monitoring Officer
Sending confirmed byelaws to the Proper Officer of every	<b>Local Government Act 1972</b> Section 236	Monitoring Officer	Deputy Monitoring Officer

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Parish and Community Council to which they apply			
Certification of byelaws	<b>Local Government Act 1972</b> Section 238	Monitoring Officer	Deputy Monitoring Officer
Keeping of roll of Freemen	<b>Local Government Act 1972</b> Section 248	Chief Executive	Monitoring Officer
Officer to whom Councillors shall give notice of address desiring Council summonses to be sent where not place of residence	<b>Local Government Act 1972</b> Schedule 12 Para.4(3)	Chief Executive	Monitoring Officer
Certification of resolutions under paragraph 25 applying or dis-applying provisions under the Public Health Acts 1875 onwards	<b>Local Government Act 1972</b> Schedule 14 Para.25(7)	Director for Regeneration and Place	Head of Neighbourhood Support
Authentication of documents and issue of notices	Various including: (a) Statutory notices under the <b>Public Health Acts 1936 and 1961, the Control of Pollution Act 1974, the Housing Acts 1957 and 1988 and the Local Government Act 1989</b> (other than for Council Houses), the <b>Local Government Miscellaneous Provisions) Act 1976</b> (except as specified in the next paragraph), the <b>Prevention of Damage by Pests Act 1948, the Food Safety Act 1990 and the Environmental Protection Act 1990</b> (as it relates to statutory nuisances)  (b) Notices under the Building Regulations and the <b>Building Act 1984</b> and under the <b>Local Government (Miscellaneous Provisions) Act 1976</b> with regard to dangerous trees and excavations  (c) any other matter	Director for Regeneration and Place	Head of Neighbourhood Support
Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	<b>Town and Country Planning Act 1971</b> Sections 54 & 58	Director for Regeneration and Place	Head of Planning

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Officer having responsibility for the storage and charge of cemetery records	<b>Local Authorities' Cemeteries Order 1977</b> Article 12	Director for Corporate Services	Head of Strategic Commissioning
Officer having responsibility for the signature of grants under Paragraph 1 of Part II of Schedule 2 of that Order and the granting of permission for the various matters referred to in Paragraph 1 of Part I of that Schedule	<b>Local Authorities' Cemeteries Order 1977</b> Paragraph 1 of Parts I & II of Schedule 2	Director for Corporate Services	Head of Strategic Commissioning
The Registration Officer for any constituency of part of a constituency coterminous or situated in the District.	<b>Representation of the People Act 1983</b> Section 8 and 52	Chief Executive	Monitoring Officer
The Returning Officer for elections of Councillors of the District and for elections of Councillors of Parishes within the District and to receive declarations of Election expenses	<b>Local Government Act 1972</b> Section 35(1)  <b>Local Government Act 1972</b> Section 82	Chief Executive	Monitoring Officer
Receipt from Returning Officer of: the names of persons elected to the Council; and election documents. Retention of election documents and making them available for public inspection.	<b>Local Elections (Principal Areas) (England and Wales) Rules 2006/3304</b>	Chief Executive	Monitoring Officer
Publication of Ombudsman reports.	<b>Local Government Act 1974</b> Part 3 - Section 30	Chief Executive	Monitoring Officer
(a) Various purposes with regard to drainage, water supply, sanitary accommodation. (b) Purposes relating to building control other than those comprised in (a) above (c) authorise action in relation to dangerous structures under Section 78	<b>Building Act 1984</b>	Director for Regeneration and Place	Head of Planning
To determine applications for exemption from the list of Politically Restricted Posts  Maintain a list of Politically Restricted Posts	<b>Local Government and Housing Act 1989</b> Section 3A  Section 2	Director for Corporate Services	Head of Organisational Development

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Receipt of Notice re changes to Political Groups Receipt of Notice of Cessation of Membership of Political Groups To accept wishes of Political Groups in respect of proportionality To notify Political Groups of allocations	<b>Local Government and Housing Act 1989</b> Sections 15,16 & 17 <b>Local Government Political Groups) Regulations 1990</b> Paras 9, 10, 13 & 14	Chief Executive	Monitoring Officer
Discharging the functions for dealing with stray dogs	<b>Environmental Protection Act 1990</b> Sections 149 - 151	Director for Regeneration and Place	Head of Neighbourhood Support
Service of notices requiring details of any interests in land.	<b>Local Government (Miscellaneous Provisions) Act 1976</b> Sections 16	Director for Regeneration and Place	Head of Property
Certification of copies of resolutions, minutes and other documents	<b>Local Government (Miscellaneous Provisions) Act 1976</b> Section 41	Monitoring Officer	Deputy Monitoring Officer
Duty of local authority to supply forms to doctors for purposes of Section 48 - Removal of dead body to mortuary for burial. Section 58 - authentication of documents Section 60 - Service of notices and other documents	<b>Public Health Act 1936</b> Sections 11, 48, 58 & 60 <b>Public Health (Control of Disease) Act 1984</b>	Director for Regeneration and Place	Head of Neighbourhood Support
The local registrar within the meaning of the Land Registration Act 2002 and Local Land Charges Act 1975 who shall register any Matters specified by these Acts affecting land situate within the District.	<b>Land Registration Act 2002 and Local Land Charges Act 1975</b>	Director for Corporate Services	Head of Customer Services
Entertainments, licensing control of sex shops and public health	<b>Local Government (Miscellaneous Provisions) Act 1982</b>	Director for Regeneration and Place	Head of Neighbourhood Support
Licensing and gambling functions	<b>Licensing Act 2003</b> <b>Gambling Act 2005</b>	Director for Regeneration and Place	Head of Neighbourhood Support
Non-disclosure where potential to prejudice the effective conduct of public Affairs	<b>Freedom of Information Act 2000</b> Section 36	Monitoring Officer	Deputy Monitoring Officer
Proper Officer Functions for petitions and referenda	<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914</b>	Chief Executive	Monitoring Officer

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29 – Establish and maintain a register of Councillors' and co-opted Councillors' interests 30 – 31 – Receipt of Councillors and co-opted Councillors' declarations of interests and changes to those interests within twenty-eight days 32 – Sensitive Interests 33 – Dispensations from restrictions under Section 31(4)	<b>Localism Act 2011</b> Sections 29 - 33	Monitoring Officer	Deputy Monitoring Officer
Proper Officer functions in relation to referenda	<b>Local Authorities (Conduct of Referendums) (England) Regulations 2012</b>	Chief Executive	Monitoring Officer
Proper Officer functions anti-social behaviour and community protection	<b>Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014</b>	Director for Regeneration and Place	Head of Neighbourhood Support
Proper Officer for notification to deal with objections by Cabinet to appointments or dismissals of Chief Officers	<b>Local Authorities (Standing Orders) (England) Regulations 2001/3384</b>	Chief Executive	Monitoring Officer
Data Protection Officer (under the GDPR (UK GDPR from 1 January 2021)	<b>Data Protection Act 2018; General Data Protection Regulation</b>	Direction of Corporate Resources	Head of IT and Senior Information Risk Officer
Making a report to Council where a <b>key decision</b> has been made without a Key Decision Notice nor in compliance with the Cabinet Procedure Rules.	<b>Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089</b>	Monitoring Officer	Deputy Monitoring Officer
Any other provisions for which arrangements are not made above or in the Scheme of Delegation to Officers (whether made before or after this list was last updated) requiring a Proper Officer or authorised Officer from time to time – either to nominate a Proper Officer or exercise the functions.	<b>Any</b>	Chief Executive	Chief Finance Officer (Section 151 Officer)

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