

PART 4

CODES AND PROTOCOLS

Havant Borough Council CONSTITUTION

Contents	Page No.
(A) The Code of Conduct for Officers	
(B) The Code of Conduct for Councillors and Arrangements for dealing with alleged breaches of the Code	
(C) Councillor/Officer Protocol	
(D) Councillors' Planning Code of Conduct	

SECTION A

CODE OF CONDUCT FOR OFFICERS

Havant Borough Council CONSTITUTION

PART 1 – INTRODUCTION

- 1.1 The public is entitled to demand and expect that local government employees will conduct themselves at the highest standard and with complete integrity. Officers are expected to demonstrate political neutrality when dealing with members of the public or elected **Councillors**.
- 1.2 The purpose of this code is to assist officers to understand what is expected of them. Observance of this code will help to maintain and improve standards and protect officers from misunderstanding or criticism.
- 1.3 Some provisions will be more relevant to individuals than others - and will depend on an employee's particular job. If officers require further advice, assistance or clarification of any information contained within this code, please refer to your manager, or contact the HR team or the Monitoring Officer.
- 1.4 This code seeks to recognise the challenges that officers face in an increasingly commercially orientated environment (e.g. local authority companies, trusts, joint partnership ventures etc.). There has always been a demand for transparency in local government and so ensuring that all officers are aware of, and adhere to, this code helps to maintain and promote high standards of conduct.

PART 2 – STANDARDS

- 2.1 Officers are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to **Councillors** and fellow employees with impartiality.
- 2.2 Officers will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any concerns that they have about the provision of services.
- 2.3 Officers should report to their manager any improper action or breach of procedure. Please see the Whistle Blowing Policy for assistance on how to raise matters which are of concern.

PART 3 – DISCLOSURE OF INFORMATION

- 3.1 The Council operates on a presumption of transparency and openness. Council reports will be in the public domain unless there are good reasons for keeping them confidential.
- 3.2 The Council must comply with the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR). However, officers must take care not to disclose confidential information and should seek guidance from their manager if in doubt about any item.
- 3.3 Officers should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a **Councillor** which is personal to that Councillor and does not belong to the Council should not be disclosed by the officer without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.
- 3.4 The General Data Protection Regulation (GDPR) has six key principles:

Havant Borough Council CONSTITUTION

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimization
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)

3.5 All officers receive training in GDPR and further information can be found on the Council's intranet.

PART 4 – POLITICAL NEUTRALITY

- 4.1 Officers serve the Council as a whole and may be required to advise political groups. In doing so they must not compromise their own political neutrality and must serve all groups equally.
- 4.2 Officers are, of course, entitled to maintain their own political views but must not allow these views to impact on the work they do. In some cases posts will be **politically restricted**.
- 4.3 The Council is required to maintain a list of posts that are subject to restriction on political activity and this list is available from the HR team.

PART 5 – CONDUCT OF STAFF IN PRE-ELECTION PERIOD

- 5.1 Prior to any election there will be a “pre-election period” which is notified to all officers of the Council.
- 5.2 Officers will be required to follow guidance issued by the Monitoring Officer during the pre –election period.

PART 6 – RELATIONSHIPS

- 6.1 No special favour may be shown to friends, partners, and relatives or to current or former employees. Officers must disclose to their manager all personal relationships, whether of a business or private nature, which might have the potential to bring about a conflict of interest between their work and those with whom they have a personal relationship.
- 6.2 Examples of personal relationships which may give rise to conflicts of interest in the workplace include:
- a family relationship;
 - a business/commercial/financial relationship;
 - a close personal friendship;

However, personal relationships are not restricted to these examples and if officers are concerned about a potential conflict of interest, they should discuss this with their manager.

PART 7– COUNCILLORS

- 7.1 Officers are responsible to the Council through the **Executive Board** of Directors. For some officers, their role is to give advice to **Councillors**. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other officers and Councillors and should, wherever reasonable and possible, be avoided.

Havant Borough Council CONSTITUTION

7.2 Officers are expected to follow the [Councillor Officer Protocol](#).

PART 8– THE LOCAL COMMUNITIES AND SERVICE USERS

8.1 Officers should always remember their responsibilities to the communities they serve and ensure courteous, efficient and impartial service delivery to all within those communities, as set out in the policies of the Council.

PART 9– CONTRACTORS

9.1 Officers should notify their manager of all relationships of a business or private nature with external contractors, potential contractors, agency staff, consultants or co-opted **Councillors**.

9.2 Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favours should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

9.3 Officers who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, must declare that relationship in writing to their manager.

9.4 Officers must fully comply with the Council's [Financial Procedure Rules](#) and [Contract Procedure Rules](#).

PART 10– APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

10.1 Officers involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with them.

10.2 Similarly, officers should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc. or with whom they have (or have had) a personal relationship.

10.3 The Council has detailed procedures for managing staff which must be followed in all cases relating to supervision or recruitment. The HR team is available to offer assistance and advice on such matters.

PART 11– OUTSIDE COMMITMENTS

11.1 Some officers have conditions of service which require them to obtain written consent to take on any other outside employment. All officers should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests, and/or which has not been the subject of written consent. Please speak with your manager or HR about any other employment activity and before you make any decisions on the matter.

11.2 Whilst an officer's off-duty hours are their personal concern it should be understood that some actions could impact upon the authority. Employees should not subordinate their work duty to private interests and put themselves in a position where duty and private interests conflict.

Havant Borough Council CONSTITUTION

PART 12– PERSONAL INTERESTS

- 12.1 Officers are required to declare an interest if they are involved in anything outside of work which could lead to a situation where they might reasonably be influenced to make a decision or to take an action at work which is not in the Council's best interests, or which shows favouritism to a certain person or body.

(a) Non-financial interests

Officers must declare to their manager any non-financial interests that they have, such as directorships of companies, trusteeships, governorships, voluntary roles (e.g. secretary, treasurer, coach) or positions of management or control in other organisations (e.g. clubs, societies, associations, charities), or any family connections with other businesses or organisations that may do business with the Council.

Such declarations should be made annually on the declaration of interests form which can be found on the Council's intranet, including a "nil" return.

(b) Financial interests

Officers must declare to their manager any financial interests which they have such as directorships, trusteeships, partnerships, or family connections with other businesses or organisations that may do business with the Council and from which they gain income or other material benefit.

Such declarations should be made annually on the declaration of interests form which can be found on the Council's intranet, including a "nil" return.

- 12.2 The declaration of interest form should be completed as soon as possible after an officer becomes aware they have an interest and no later than 28 days after they become aware of it. Failure to disclose such interests may lead to disciplinary action being taken.

PART 13– EQUALITIES

- 13.1 All individuals have a right to be treated with fairness and equity. Officers should ensure that policies relating to equality issues as agreed by the Council are complied with in addition to the requirements of the law.

PART 14– CORRUPTION

- 14.1 Corruption would include receiving or giving any payment, gift (other than a gift of a nominal value), hospitality, or any other benefit from any person or organisation who an officer deals with in their work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an officer or to the officer's family or friends.
- 14.2 Any case of suspected corruption will be fully investigated and any proven cases will be treated as gross misconduct and criminal prosecutions undertaken.

Havant Borough Council CONSTITUTION

PART 15– GIFTS AND HOSPITALITY

- 15.1 Officers must be aware that the offering and acceptance of gifts could result in criminal proceedings (under the Bribery Act 2010). It is obviously wrong for an officer to accept inducements for personal gain in exchange for treating a client or contractor favourably. On the other hand, it would be churlish to refuse minor items which are of only nominal value.

Gifts

- 15.2 Officers should refuse gifts made to them personally, or to a family member, by a person or organisation which has, or seeks, dealings with the authority. Excepted from this rule are minor promotional gifts distributed to a wide range of people and not uniquely to one officer (e.g. pens, calendars, diaries etc. given usually at Christmas time for use in the office) of up to £10 in value, or gifts given in thanks for good service, such as a box of chocolates, plant or flowers up to the value of £10.
- 15.3 All gifts above this value should be refused. Where it is felt that this will cause embarrassment, officers should explain to the donor that they are not able to accept such gifts, and thank the donor for their kindness, nonetheless. If received by post, officers should return the gift to the donor with a polite email making it clear that no individual has gained personal advantage from the gift.
- 15.3 If an officer is in any doubt they should seek advice from their manager.

Hospitality

- 15.4 Invitations to lunch or some other function from a person or organisation which has or is seeking dealings with the Council must be treated with care. A modest working lunch to discuss business or attendance at a reception or promotion which is proportionate and not extravagant, and which has been approved by an officer's manager is acceptable.
- 15.5 Examples of offers which must be refused include:
- an overnight stay at a hotel
 - holidays or hotel accommodation
 - theatre tickets
 - membership of clubs
 - regular or frequent acceptance of corporate hospitality, particularly from the same source
 - hospitality in the immediate period before tenders are invited or during the tender process
 - hospitality unconnected to work, even if the hospitality is taken in the Officer's own time
 - hospitality which the Officer or their manager thinks is lavish, extravagant or excessive, even if the hospitality is taken in the Officer's own time
- 15.6 If Officers are aware that hospitality will be offered at a meeting or event, they should discuss it with their manager beforehand, and if approved, make the necessary declaration prior to attending. Otherwise, all offers of hospitality should be declared as soon as possible after the event.
- 15.7 If Officers are in any doubt, they should seek advice and approval from their manager.

Havant Borough Council CONSTITUTION

Register

- 15.8 All offers of gifts and / or hospitality must be recorded on a form which can be found on the Council's intranet. The form requires that the date of any offers of gifts/hospitality must be included, together with the financial value of it, and the name of the donor. Also, the reasons for acceptance of any gift or hospitality must be included on the form. The form must be approved by an officer's manager and in the case of the Chief Executive Officer, by the Monitoring Officer.

PART 16 –BREACH OF THIS CODE OF CONDUCT

- 16.1 Breach of this Code may amount lead to disciplinary proceedings being brought against the officer concerned.

SECTION B CODE OF CONDUCT FOR COUNCILLORS

INCLUDING ARRANGEMENTS FOR HANDLING COMPLAINTS

Havant Borough Council CONSTITUTION

PREAMBLE TO THE CODE OF CONDUCT

This Preamble provides an explanatory introduction to the Councillors' Code of Conduct. It does not form part of the Code of Conduct, and in the event of any conflict between the Preamble and the Code, the Code shall take precedence. The Standards Committee are responsible for administering the Councillor's Code of Conduct.

Introduction

The Havant Borough Council has adopted the following code dealing with the conduct that is expected of Councillors and co-opted members of the Council when they are acting in that capacity, as required by section 27 of the Localism Act 2011 ("the Act").

The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Councillors, and the Code sets out the standards that the Council expects Councillors to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Councillors. If in doubt, Councillors should seek advice from the Monitoring Officer or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Councillors themselves.

Councillors should not do anything in their capacity as Councillors, which they could not justify to the public or could not justify by law. Councillors' conduct and what the public believe about their conduct will affect the reputation and credibility of Councillors and the Council as a whole.

Failure to comply with the code may result in a sanction being applied by the Council.

Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and an unlimited fine and/or disqualification from office for a period of up to 5 years.

Expectations and Values

It is the responsibility of individual Councillors to understand comply with the provisions of the Code of Conduct and the Protocols contained in or linked to the Council's Constitution, as well as such other legal obligations as may apply to them from time to time.

Councillors have a responsibility to ensure that they comply with the Code of Conduct in all respects.

Councillors are community leaders who will hold their peers to account and challenge any conduct which is unbecoming to the role and position of Councillor.

Councillors will treat each other and officers civilly and with respect and will challenge any breach of this requirement.

Councillors will regularly review their personal circumstances and intended actions in the context of the Code.

Havant Borough Council CONSTITUTION

It is not enough to avoid impropriety; perception is also important. Councillors should avoid any occasion for suspicion and any appearance of improper conduct.

SEVEN GENERAL PRINCIPLES OF PUBLIC LIFE

The Code of Conduct includes and is intended to be consistent with the following seven principles, introduced by the Committee on Standards in Public Life, as required by the Localism Act 2011.

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Part A

General Provisions

Introduction and interpretation

1. — (1) This Code applies to members of the Council and any co-opted member.

Havant Borough Council CONSTITUTION

(2) It is your responsibility to comply with the provisions of this Code.

(3) In this Code—

"meeting" means any meeting of—

(a) the Council;

(b) the Cabinet of the Council;

(c) any of the Council's or its Cabinet Committees, Sub-Committees, Joint Committees, Joint Sub-Committees,

(d) any informal meetings,

"member" includes a co-opted member and an appointed Councillor.

Scope

2. You must comply with this Code whenever you:

(a) conduct the business of your Council (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your Council, and references to your official capacity are construed accordingly.

(c) you act or may be perceived as acting in your role in public life.

General obligations

3. (1) You must treat others civilly and with respect.

(2) You must not—

(a) do anything which may cause the Council to breach the Equality Act 2010 (or subsequent legislation)

(b) bully¹ any person;

(c) intimidate or attempt to intimidate any person, in particular:

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Councillor has failed to comply

¹ Bullying definition is the definition as adopted by ACAS an updated from time to time and includes any offensive, intimidating, malicious or insulting behaviour, abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Havant Borough Council CONSTITUTION

with the Council's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

(3) The Chief Executive and the Monitoring Officer should be advised about any close personal relationship with an Officer or a close family member of an Officer, that goes beyond that of a simple friendship which might be expected to exist between colleagues.

4. You must not:

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice (such as legal advice) provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is permitted by law; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which a reasonable member of the public would regard as bringing the Council or the office of Councillor into disrepute.

6. You must:

(a) represent the needs of residents- the whole community and your constituents, including those who did not vote for you,

(b) deal with representations or inquiries from residents and visitors, fairly, appropriately and impartially

7. You:

(a) must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person, an advantage or disadvantage²; and

(b) must, when using or authorising the use by others of the resources of the Council—

(i) act in accordance with the Council's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

² The advantage may be any benefit and need not be material or financial.

Havant Borough Council CONSTITUTION

8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

(a) the Council's Chief Finance Officer; or

(b) the Council's Monitoring Officer, where that Officer is acting pursuant to his/her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

Disclosable Pecuniary Interests

This part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

1. Notification of disclosable pecuniary interests

Within 28 days of becoming a Councillor or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

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

(a) Details of any employment, office, trade, profession or vocation carried on for profit or gain

(b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.

(d) Details of any beneficial interest in land which is within the area of the relevant authority.

(e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

(f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.

(g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Havant Borough Council CONSTITUTION

For the purposes of the foregoing “relevant authority” means the Council; “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above.

2. Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council’s website.

3. Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence, intimidation, threats, harassment or abusive behaviour and the Monitoring Officer agrees, if the interest or information is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest or information, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

4. Non-participation in case of disclosable pecuniary interest

a) If you are present at a meeting of the Council, Cabinet, or any Committee, Sub-committee, Joint Committee or Joint Sub-Committee of the Council, and you have a disclosable pecuniary interest in any matter to be considered or being considered at

the meeting:

- You may not participate in any discussion of the matter at the meeting.
- You may not participate in any vote taken on the matter at the meeting.
- If the interest is not registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

b) Where a Cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by them, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

5. Dispensations

The Monitoring Officer may authorise the granting of dispensations pursuant to section 33 of the Localism Act 2011.

6. Offences

It is a criminal offence to:

Havant Borough Council CONSTITUTION

- (a) Fail to notify the Monitoring Officer within twenty-eight days of election of any disclosable pecuniary interest
- (b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- (c) Fail to notify the Monitoring Officer within twenty-eight days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- (d) Participate in any discussion, see paragraph 12 below, or vote on a matter in which you have a disclosable pecuniary interest
- (e) As a Cabinet member discharging a function acting alone and having a disclosable pecuniary interest in such a matter, fail to notify the Monitoring Officer within 28 days of the interest.
- (f) Knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

7. Notification of changes

You must notify the Monitoring Officer within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

Other Interests

8. Notification of Other Interests

(1) You must, within 28 days of adopted of the Code; or your election or appointment to office notify the Monitoring Officer in writing of the details of your other interests within the following categories, for inclusion in the register of interests:

- (a) Details of any body of which you are a member or in a position of general control or management;
- (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (c) Details of any gift or hospitality with an estimated value of at least £50 that you have received in connection with your role as a Councillor, and details of the donor, the reason for acceptance and disposal .

(2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

9. Disclosure of Other Interests

(1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8(1) above or in paragraph (2) below in any business of the Council, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Havant Borough Council CONSTITUTION

(2) You have an interest in any business of the Council where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association, to a greater extent than the majority of other Council Tax payers.

(3) Where you have an interest in any business of the Council of the type mentioned in paragraph 8(1)(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph 11, sensitive information relating to it is not registered in the register of Councillors' interests, you must indicate to the meeting that you have an interest but need not disclose the sensitive information to the meeting.

(5) Where you have an interest in any business of the Council by virtue of paragraph 8(1) or 9(2), and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

10. Register of interests

(1) Any interests notified to the Monitoring Officer under paragraph 8 above will be included in the register of interests.

(2) A copy of the register will be available for public inspection and will be published on the Council's website.

11. Sensitive interests

Where you consider that disclosure of the details of another interest could lead to you, or a person connected with you, being subject to violence, intimidation, threats, harassment or abusive behaviour, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

12. Nonparticipation in case of certain other interests

(1) Subject to paragraphs (2) and (3) below, where you have an interest in any business of the Council by virtue of paragraph 8(1) or 9(2) AND the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

(2) Where you have an interest in any business of the Council to which paragraph 12(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

Havant Borough Council CONSTITUTION

(3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of the Council in respect of—

(i) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;

(ii) an allowance, payment or indemnity given to Councillors;

(iii) any ceremonial honour given to Councillors; and

(iv) setting Council Tax or a precept under the Local Government Finance Act 1992.

(v) Where, as a Cabinet member, you may discharge a function alone, and you become aware of an interest under paragraph 12(1) in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

Havant Borough Council CONSTITUTION

ARRANGEMENTS FOR DEALING WITH ALLEGATIONS THAT A MEMBER OF THE CITY COUNCIL OR A MEMBER OF A PARISH COUNCIL WITHIN THE DISTRICT OF THE COUNCIL HAS FAILED TO COMPLY WITH THE RELEVANT CODE OF CONDUCT.

LOCALISM ACT 2011 SECTION 28

These arrangements are made under Sections 28(6) and (7) of the Localism Act 2011, and set out how Havant Borough Council will deal with allegations that a Councillor has failed to comply with the relevant Code of Conduct. These arrangements provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided should be investigated, and whose views can be sought by the Council at any other stage.

1. Making an Allegation

(1) An allegation that a Councillor has failed to comply with the requirements of the relevant Code of Conduct must be made to:

(a) The Monitoring Officer,

(2) An allegation may be sent by email, or other any other media with any supporting information to the Monitoring Officer. A form for this purpose is available on the Council's website.

(3) The allegation must be that the Councillor(s) has, or may have, breached the relevant Code of Conduct. The Code of Conduct adopted by a parish or town council is available on that council's website or from the relevant parish or town council clerk.

(5) Anyone making an allegation should provide full details of the conduct complained of and how it is alleged to constitute a breach of the relevant Code of Conduct. Details of the person making the allegation will generally be provided to the Councillor, unless the Monitoring Officer considers that there are special reasons for keeping this information confidential.

2. Procedure once an allegation is received

(1) Once an allegation is received or the Monitoring Officer has been made aware of circumstances meeting the criteria in Appendix 1, the Monitoring Officer will provide a copy of the allegation or a summary of the circumstances to the Councillor complained of, and advise that the Councillor may submit any comments to the Monitoring Officer if the Councillor wishes to do so.

(2) In appropriate cases, the Monitoring Officer may seek to resolve the matter informally. This may involve the Councillor accepting that his/her conduct was unacceptable and offering an apology.

(3) If informal resolution is not possible, the Monitoring Officer will, in consultation with the Independent Person, the Chair of the Standards Committee (or the Vice-Chair if the Chair is a member of the same group within the Council as the Councillor complained of), and, if appropriate inform the Chief Executive, determine whether the complaint merits formal investigation, or whether no further action should be taken.

Havant Borough Council CONSTITUTION

(4) The Monitoring Officer may refer a complaint to the Standards Committee for a decision to investigate if the Monitoring Officer considers it would be inappropriate for them to take the decision.

(5) Whilst each allegation will be considered on its own facts, the assessment criteria

(6) If an allegation is not referred for investigation, the complainant has no right of appeal.

The Monitoring Officer will report to each scheduled Standards Committee meeting on the complaints received and decisions taken on them. The report will not be open to the press and public as it will contain information relating to named individuals.

3. Investigation

(1) Where a complaint is referred for investigation, the Monitoring Officer will arrange for the investigation to be undertaken by an Officer of the Council, or by an external investigator.

(2) If the investigating Officer finds no evidence of failure to comply with the Code, the Monitoring Officer may close the matter, in consultation with the Independent Person, Chair or Vice-Chair of the Standards committee and inform the Chief Executive. The Monitoring Officer may still refer the matter to the Standards Committee if in their absolute discretion it appears appropriate. The Monitoring Officer will in any event provide a summary to the next meeting of the Standards Committee.

(3) Where a formal investigation finds evidence of failure to comply with the Code of Conduct, an opportunity for local resolution may be provided and the complainant may be satisfied by recognition of fault or an apology. The Monitoring Officer has authority to agree a local resolution, in consultation with the Independent Person, the Chair or Vice-Chair of the Committee subject to the complainant being satisfied with the outcome a summary report will be made to the Standards Committee.

(4) In all other cases where the formal investigation finds evidence of a failure to comply with the Code of Conduct, the Standards Committee will hold a hearing within two months of the investigation report at which the Councillor complained of may respond to the investigation report and the Committee will determine whether the Councillor did fail to comply with the Code of Conduct and what action, if any, is appropriate. The Committee's Pre-hearing and Hearing Procedures is set out in Part 4 – Section 3 (C) and (D).

The Hearing Committee will be advised by an Independent Person and by the Monitoring Officer.

(5) The sanctions open to the Standards Committee are:

- i. to censure, to report the findings to Full Council,
- ii. to recommend the Councillor's Group Leader to remove the Councillor from any or all Committees,
- iii. to withdraw Council facilities, such as a computer, or to exclude the Councillor from the Council's offices with the exception of meeting rooms as necessary for attending meetings of Council/Committee.

There is no right of appeal.

Havant Borough Council CONSTITUTION

(6) With regard to parish Councillors, the Standards Committee may make a recommendation to the parish council on action to be taken in respect of the Councillor.

4. Conflict of Interest

(1) Where a complaint is made by a Councillor about another Councillor, and the membership of the Committee there could also be a perception of conflict of interest where the Chair is consulted and is of the same group as the complainant. The Monitoring Officer will discuss with both the Chair and the Vice-Chair the management of any possible perceived conflicts of interest.

ASSESSMENT CRITERIA

1. The Monitoring Officer will reject a complaint if it fails to meet one or more of the following tests:

a. The complaint is against one or more named Councillors or co-opted members of the or a parish or town council within the District.

b. There is sufficient evidence to suggest the Councillor was acting in a public or Council capacity.

c. The complaint, if proven, would be a breach of the Code of Conduct.

2. The Monitoring Officer, following consultation with the Independent Person, the Chair or Vice-Chair of the Committee, or the Standards Committee may decide to refer a complaint for investigation where the complaint discloses a potential breach of the Code of Conduct sufficiently serious, if proven, to warrant a sanction, and where it would be in the public interest to investigate.

3. Circumstances where the Monitoring Officer following consultation with the Independent Person, the Chair or Vice-Chair of the Committee and the Chief Executive, if appropriate or the Standards Committee may decide that no action should be taken in respect of a complaint:

a. Where the complaint is about someone who is no longer a member of the Council or a parish or town council,

b. Where a substantially similar allegation has previously been made by the complainant to the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority,

c. Where the Monitoring Officer has considered the complainant has unduly delayed without reasonable cause,

d. Any undue delay has resulted in the Councillor being so unfairly prejudiced that it would be wholly unreasonable to continue. In the event the delay was caused or contributed to by the actions of the subject Councillor the delay the Monitoring Officer may continue with the investigation and any hearing.

4. Where the allegation is anonymous, and without capability of independent corroboration.

5. When the allegation discloses a potential breach of the Code of Conduct, but the complaint does not appear serious enough to warrant further action.

Havant Borough Council CONSTITUTION

6. Where the complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the complaint

REFERRED FOR INVESTIGATION

1. When an allegation is referred by the Monitoring Officer or the Standards Committee for investigation, the Monitoring Officer will within ten working days or as soon as reasonably practicable, inform the Councillor who is the subject of the allegation of failure to comply with the Code of Conduct, ("the Subject Councillor"), the person who made the allegation ("the Complainant"), and the clerk to any parish council concerned that the matter has been referred for investigation.

2. The Monitoring Officer may appoint an Investigating Officer who may be an Officer of the Council, or an external investigating Officer. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation and may obtain such professional advice as may be necessary. The Monitoring Officer will advise the Subject Councillor and the Complainant of the appointment of the Investigating Officer.

3. The Investigating Officer may make such inquiries as they think necessary or expedient for the purposes of conducting the investigation, and may request any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.

4. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Councillor. The Subject Councillor will be advised that they may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish. Any accompanying person must either be under a professional duty of confidentiality (a solicitor or legal representative) or have signed a confidentiality agreement in respect of any information disclosed during the interview or hearing that is not in the public domain.

5. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.

6. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Councillor and the Complainant for review and comment and will indicate that it does not necessarily represent the Investigating Officer's final conclusion.

7. If the Investigating Officer issues a draft report, the investigator will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report.

Havant Borough Council CONSTITUTION

8. The Investigating Officer's final report will include all relevant documents, and copies of all witness statements obtained during the investigation. The report will commence with a statement of the Investigating Officer's conclusion. The conclusion will indicate if the evidence supports a failure to comply with the Code of Conduct of the council or parish or town council

9. The Investigating Officer will submit the final report to the Monitoring Officer.

PRE-HEARING PROCEDURE

1. Where an investigation report indicates that there has been a breach of the Code of Conduct and the matter cannot otherwise be resolved by local resolution, a hearing will be arranged within two months of receipt. The hearing will be a meeting of the Committee convened specifically for that purpose.

2. A copy of the investigation report will be sent to the Subject Councillor, the complainant, the clerk to the parish council if the subject is a Parish Councillor, the Chair or Vice Chair of Standards Committee.

3. The subject Councillor may provide written response within 15 working days, which response shall set out the Subject Councillor's reply to the Investigating Officer's report and shall state if they:

- a. Disagree with any of the findings of fact in the report, giving the reasons for any disagreement
- b. Wish to be accompanied at a hearing by any person
- c. Wish to give evidence to the Committee, either orally or in writing
- d. Wish to ask any person to give evidence to the Committee
- e. Wish any part of the hearing to be held in private
- f. Wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

4. The Subject Councillor shall be informed that if, at the meeting of the Committee, they seek to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.

5. Upon receipt of the Subject Councillor's response, the Investigating Officer shall be invited to comment on it within ten working days. If the report is disputed the investigating officer must indicate if they are appointing another officer or person to be present the evidence upon which the report was based.

6. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Subject Councillor and the Investigating Officer and set a date for the hearing in consultation with the Chair of the Committee.

7. If the subject Councillor has indicated they wish a person to attend to give evidence the Standards Committee may in its absolute discretion agree to hear from that person. A question may only be asked with the permission and absolute discretion of the Chair of the Committee.

Havant Borough Council CONSTITUTION

8. Nothing in this procedure shall limit the Chair of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.

HEARING PROCEDURE

1. The Hearing Committee shall decide, on a balance of probabilities, on the evidence presented to it, whether the complaint is upheld.
2. All matters shall be decided by a simple majority of votes cast. If there are equal numbers, the Chair shall have a second and casting vote.
3. The Independent Person shall attend the hearing in an advisory, non-voting capacity.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed.
5. The procedure for the hearing shall be as set out below, but the Chair may agree to vary this procedure in any particular instance where they are of the opinion that such variation is necessary in the interests of fairness.
6. The Subject Councillor may be accompanied during the meeting by another person to support, advise or assist them.
7. The Committee may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Committee will be shared with the Subject Councillor and the Presenting/Investigating Officer if they are present at the hearing.
8. At the start of the hearing, the Chair shall introduce each of the members of the Committee, the Independent Person, the Subject Councillor (if present), the Investigating Officer (if present) and any other Officers present, and shall then explain the procedure which the Committee will follow in the conduct of the hearing.
9. The Committee shall then confirm that it is quorate, and deal with any disclosures of interests.
10. If the Subject Councillor is not present at the start of the hearing:
 - a. The Chair will ask the Monitoring Officer if the Subject Councillor has provided any explanation.
 - b. The Committee shall then consider any reasons which the Subject Councillor has provided for not attending the hearing and shall decide if in exceptional circumstances an adjournment is justified.
 - c. If the Subject Councillor has not given any reasons for nonattendance, the Committee shall consider the matter and make a determination in the absence of the Subject Councillor.
11. If there is disagreement, the Presenting/Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Committee, witnesses can be called to give relevant evidence. With the permission of the Chairman of the Committee the Subject Councillor, the Committee members and the Independent Person may ask questions of a witness.
13. The Subject Councillor will then present the evidence that is relevant to the facts in dispute. With the permission of the Committee, witnesses can be asked to give relevant evidence. With

Havant Borough Council CONSTITUTION

the permission of the Chairman of the Committee the Subject Councillor, the Committee members and the Independent Person may ask questions of a witness.

14. If the Subject Councillor disagrees with any relevant fact in the report without having given prior notice, they must provide reasons, the Committee may continue with the hearing, relying on the information in the report, may allow the Subject Councillor to make representations about the issue and invite the Presenting/Investigating Officer to respond. The Committee may in exceptional circumstance postpone the hearing.

15. The Committee will consider in private, with the Independent Person, all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct.

16. At any stage in the consideration of the matter, the Committee may return to ask further questions of the Investigating Officer or the Subject Councillor or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

SECTION C COUNCILLOR / OFFICER PROTOCOL

Havant Borough Council CONSTITUTION

CONTENTS

1. Introduction	2
2. Role of Councillors and Officers.....	2
3. Expectations	3
4. Provision of information	5
5. When Things Go Wrong	9

Havant Borough Council CONSTITUTION

1. INTRODUCTION

- 1.1 The relationship between elected Councillors and officers is fundamental to the successful working of the Council. This relationship is based on honesty, mutual respect and trust, and this protocol is intended to support that relationship by giving guidance on roles and relationships to build a common understanding and set of expectations. The protocol also sets out what should happen on the rare occasions when things go wrong. All Councillors and officers should abide by this protocol. Political group leaders in respect of Councillors, and the Chief Executive and Monitoring Officer in respect of officers, are responsible for ensuring the protocol is upheld.
- 1.2 This protocol should be read and understood alongside relevant legislation and the respective Codes of Conduct. This would include the Councillors' Code of Conduct, the Officer Code of Conduct, Social media policy etc. If any questions arise from this protocol, advice should be sought from the Chief Executive or Monitoring Officer.
- 1.3 The Council operates a zero tolerance policy to bullying and harassment.

2. ROLE OF COUNCILLORS AND OFFICERS

- 2.1 The respective roles of Councillors and officers can be summarised as follows:
 - (a) Both Councillors and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct from one another
 - (b) Councillors are democratically elected, operate politically, are accountable directly to the public and serve as long as their term of office lasts
 - (c) Officers are politically impartial and are responsible to the Council as their employer. Their role is to give advice to members and the authority and carry out the work of the authority under the direction and control of the Full Council, Cabinet and their committees. Officers are accountable to the Chief Executive as Head of Paid Service

Councillors

- 2.2 Councillors have four main areas of responsibility:
 - (a) Determining the Council's policies and giving political leadership
 - (b) Monitoring and reviewing the performance of the authority in implementing policy and delivering services
 - (c) Representing the authority externally
 - (d) Acting as advocates on behalf of their constituents
- 2.3 It is not the responsibility of Councillors to involve themselves in the day-to-day management of the Council or its services. They should not seek to give instructions outside their areas of responsibility or terms of reference of their respective Committee.

Havant Borough Council CONSTITUTION

- 2.4 All Councillors, including members of the Opposition or of Scrutiny Committees or Panels, have the same rights and obligations as individual Councillors in their relationships with officers and should be treated equally.

Members of the Cabinet, Chairmen and Vice Chairmen

- 2.5 Members of the Cabinet, Chairmen and Vice Chairmen have additional responsibilities, entailing different relationships and more regular contact with officers. They still must respect the impartiality of officers, and must not ask them to undertake work of a party political nature or that could prejudice their impartiality.

Officers

- 2.6 The role of officers is to give advice and information to members and to implement the policies determined by the Council, the Cabinet and their committees.
- 2.7 Certain officers have responsibilities in law over and above their obligations to the authority and members. These are known as statutory officers and include the Chief Executive/Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151 officer). Councillors must respect these responsibilities and not obstruct or victimise officers in the discharge of them.

Communications

- 2.8 The Council's Communications team are able to support the Cabinet and Chairmen of Committees – including Audit and Scrutiny– when they act as spokespeople for the Council. There are specific statutory restrictions on the use of public resources for the Council's communications, which are followed by officers and must be respected by Councillors.

3. EXPECTATIONS

- 3.1 Councillors and officers can expect the following from each other:
- (a) A working partnership
 - (b) An understanding of and support for respective roles, workloads and pressures;
 - (c) Respect, dignity and courtesy;
 - (d) Integrity, mutual support and appropriate confidentiality;
- 3.2 Councillors can expect from officers:
- (a) A commitment to the authority as a whole, and not to any political group;
 - (b) Timely response to enquiries and complaints in accordance with agreed procedures;
 - (c) Professional, accurate, honest and impartial advice, not influenced by political views or preference;
 - (d) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
 - (e) Awareness of and sensitivity to the political environment;

Havant Borough Council CONSTITUTION

- (f) Training and development from officers in order to carry out their roles effectively;
- (g) Not to have personal issues raised with them by officers outside of the Council's agreed policies and procedures;
- (h) That officers will at all times comply with the relevant Code of Conduct;
- (i) Support for the role of Councillors as the local representatives of the authority.

3.3 Officers can expect from Councillors:

- (a) Political leadership and direction through full Council and the Cabinet;
- (b) Not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of officers in determining what are reasonable requests, having regard to the powerful relationship between members and officers, and the potential vulnerability of officers, particularly at junior levels;
- (c) That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- (d) That Councillors will not publicly name officers or make detrimental remarks about officers during public meetings. Where Councillors are chairing or otherwise in a position of authority on committees they will do their best to ensure that meetings are conducted in such a way that officers are not subjected to bullying or harassment by members of the public attending meetings;
- (e) That Councillors will not draw officers into political or group discussions;
- (f) That Councillors will at all times comply with the relevant Code of Conduct.

Limitations upon behaviour

3.4 The distinct roles of Councillors and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Councillors and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception by others that a particular member or officer may secure advantageous treatment. They should therefore be avoided;
- (b) The need to maintain the separation of roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- (c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others.

4. PROVISION OF INFORMATION

4.1 Councillors should be provided with adequate information about services or functions upon which they may be called upon to make or scrutinise decisions, or which affect their constituents. In the normal course of events, this information will be made routinely available by officers in the form of reports, departmental plans, updates etc. Councillors are encouraged to make use of existing sources of information wherever possible.

Havant Borough Council CONSTITUTION

Members of the Cabinet, Chairmen and Vice Chairmen

- 4.2 Members of the Cabinet, Chairmen and Vice Chairmen have additional responsibilities, entailing different relationships and more regular contact with officers
- 4.3 In order for them to discharge their responsibilities as Cabinet members, portfolio holders will be briefed by Directors on service issues, proposals and policy development. Directors may from time to time nominate other officers to attend these meetings. Directors may also brief committee chairmen on matters relevant to the terms of reference of the committee. These informal meetings may be on a one off or regular basis, in accordance with the requirements of the Councillor concerned.

Local Ward Councillors

- 4.4 Officers should keep Councillors apprised of developments that are relevant to their role as a local ward Councillor.
- 4.5 Ward Councillors should be kept up to date with all major policy developments, public consultations and proposed changes to service delivery affecting their ward.

Members' Enquiries

- 4.6 Any Councillor may ask the relevant Director to provide him or her with such factual information, explanation and advice about the Department's functions as he or she may reasonably need in order to assist him/her in discharging his or her role as a member of the Council or acting for and on behalf of the Council as an appointed representative to another body. These requests will be met where the Councillor has a legal right to the information. If that right arises under the Freedom of Information Act, the Councillor shall not be required to make a formal FOI request.
- 4.7 All such information should be provided in accordance with the Member Enquiry Process. Where there are established alternative procedures, the enquiry will be put through those procedures and not dealt with as a Member Enquiry.
- 4.8 Where a Councillor requests a service on behalf of a constituent that will be dealt with as a 'service request' by the appropriate service team.
- 4.9 Any requests for information made by political group assistants on behalf of members of their group should be treated in exactly the same way as if those Councillors had made the request themselves. The political group assistants, when making such requests should clearly indicate on which Councillor's behalf they are acting.

Briefings to political groups

- 4.10 The Leader of the Council or the Leader of any other political group may request the Chief Executive or relevant Director to prepare a briefing or written report on any matter relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential or personal information. In considering such a request, officers should

Havant Borough Council CONSTITUTION

be mindful of the need to support members by providing factual information. However if an officer deems the nature of the request to be unreasonable the request will be referred to the Chief Executive for determination, were necessary in consultation with the Leader(s) of the political group(s).

- 4.11 Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option and officers will not make any recommendation to a political group.
- 4.12 Any briefing offered to or requested by a party group will be offered to any other party groups. Where possible such briefings should be to all or a combination of party groups.

Officer attendance at political group meetings

- 4.13 The Leader of the Council or the Leader of any other political group may request the Chief Executive or relevant Director to attend a meeting of the group to advise on any matter relating to the authority.
- 4.14 Attendance at a meeting of a political group should be on the basis of equality of access, and members and officers should avoid officers being exposed to political discussions when delivering a briefing. Officers may decline to attend or provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- 4.15 Any briefing offered to or requested by a party group will be offered to any other party groups. Where possible such briefings should be to all or a combination of party groups. No officer of the Council shall attend any political group meeting which includes non- Councillors.
- 4.16 Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option and officers will not make any recommendation to a political group.
- 4.17 Officers will request the confidentiality of any matter which they are privy to in the course of attending a political group meeting.

Councillors' Access to Reports and background papers

- 4.18 Access to Cabinet, Committee or Sub-Committee papers and other documents or information is governed by:-
 - (a) Local Government Acts 1972-2000 (particularly Schedule 12A)
 - (b) Relevant case law
 - (c) Access to Information Standing Orders Rules (Part 3 of the Constitution)
 - (d) Freedom of Information legislation
 - (e) **Data Protection legislation**

4.19 The rights of Councillors can be summarised as follows:

Havant Borough Council CONSTITUTION

- (i) Councillors generally enjoy the same access rights as members of the public in respect of public papers;
- (ii) Members of the appropriate Cabinet, Committee or Sub-Committees will have a good reason for access to all exempt information on the Cabinet, Committee, Sub-Committee agenda under the common law “Need to Know” principles;
- (iii) Members of the Overview and Scrutiny Committee will have a prima facie “Need to Know” where they require access to exempt Cabinet agenda items as part of their scrutiny function provided the subject matter relates to an action or decision that the member is reviewing or scrutinising as part of the agreed scrutiny work programme;
- (iv) All other Councillors who require access to confidential/exempt Cabinet, Committee or Sub-Committee documentation will need to request disclosure under the Freedom of Information Act 2000 or demonstrate a “Need to Know”.

- 4.20 It is important to note that these rights only apply where Councillors are clearly carrying out their role as elected representatives. Where any Councillor has a disclosable pecuniary interest or a personal and prejudicial interest in a matter the Councillor will only be entitled to the same access as would be the case for a private individual, i.e. to inspect the reports, minutes and background papers relating to the public part of the Cabinet, Committee or Sub-Committee Agenda. In these circumstances, the Councillor must make it clear that s/he is acting in his/her private capacity and not as a member of the Council.
- 4.21 More information can be found in the [Access to Information Standing Orders](#) at Part 3 of this Constitution.

Confidential/Exempt Information

- 4.22 Whilst members of the Council have the same rights as the public in seeking and obtaining public documents or information under Freedom of Information legislation, this is not the case in relation to exempt and confidential information.
- 4.23 Confidential information is information:
- (i) furnished to the Council by a Government Department on terms which forbid the disclosure of the information to the public, or
 - (ii) which may not be disclosed by or under any enactment or by a Court Order.
- 4.24 Exempt information is information to which the public may be excluded subject to certain qualifications. The categories of exempt information are set out in Schedule 12A to the Local Government Act 1972 and are reproduced in the Access to Information Standing Orders at Part 3 of this Constitution. There may be some occasions when information may fall within one or more of the categories, but it is nevertheless in the public interest to disclose it under Freedom of Information legislation, without infringing personal rights or damaging the Council's position. If there is doubt in relation to individual items then they should be kept confidential until the Cabinet, Committee or Sub-Committee has taken a view as to whether they should be treated as exempt or not.

More information can be found in the [Access to Information Procedure Rules](#) at Part 3 of this Constitution.

Havant Borough Council CONSTITUTION

Use of Council Information – Confidentiality

- 4.25 Procedure Rules and specific local procedures (e.g. on contracts) require Councillors and officers to maintain confidentiality in certain circumstances. Officers are bound by their contracts of employment and any breach of confidentiality will almost certainly lead to disciplinary action. Officers must distinguish between assisting an elected representative in the course of the Councillor's Council business and dealing with the same person as a client or customer, e.g. a Housing Benefit claimant. In the latter case, officers will treat the member with the same degree of helpfulness, courtesy and confidentiality as would be afforded to any other member of the public in the same situation, and interpret the relevant rules and procedures as they would for any other client or customer.
- 4.26 Equally, any Council information provided to a Councillor on the basis of a 'Need to Know' must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as an elected representative of the Council. Confidential or exempt information provided to Councillors may be discussed in the private session of Committee meetings or in private meetings of appropriate members and officers. However, it should not be discussed with, or released to, any other persons. Any information that is provided should be clearly marked as confidential before it is released to Councillors.
- 4.27 Councillors abusing this trust may find themselves the subject of a complaint to the Standards Committee that they have contravened the [Code of Conduct for Councillors](#).
- 4.28 Information disclosed privately or private discussions held during exempt Committee sessions, informal briefings or group meetings should not be disclosed by Councillors or officers to any person not already privy to that information.

5. WHEN THINGS GO WRONG

- 5.1 Rarely, the relationship between Councillors and officers will fall short of expectations. In such instances, it would always be preferable to deal with matters at an early stage and informally through conciliation through a senior manager or political group leadership or whips. This may not always be possible, in which case the following procedures should be followed.

Procedure for officers

- 5.2 If conciliation via a senior manager is not possible, officers can have recourse to the Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter under the arrangements for complaints under the [Code of Conduct for Councillors](#).

Procedure for Councillors

- 5.3 In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Director. Where the officer concerned is a Director the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive the matter should be raised with the Monitoring

Havant Borough Council CONSTITUTION

Officer. If a Councillor is unsure how to proceed, or would wish to discuss the conduct of another Councillor toward officers, they should discuss this with their group leader.

SECTION D

COUNCILLORS' PLANNING CODE OF CONDUCT

Havant Borough Council CONSTITUTION

COUNCILLORS' PLANNING CODE OF CONDUCT

Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges against local planning authorities concerning Councillors' conduct or conflicts of interests.

This 2014 update takes into account the update to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

For further reading please refer to 'Probity in Planning' issued by the Local Government Association.

Introduction

The aim of this Code: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code applies: this code applies to members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

Havant Borough Council CONSTITUTION

1. Relationship to the Code of Conduct for Councillors

- **Do** apply the rules in the Code of Conduct for Councillors first, which must always be complied with. This is both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Code of Conduct for Councillors and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality of the related decision or maladministration; and
 - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the DPI provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Personal Interests

- **Do** disclose the existence and nature of your interest as required by your Authority's Code of Conduct for Councillors.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a DPI or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Councillors when other members of the public would not have the same opportunity to do so.

Havant Borough Council CONSTITUTION

- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a Councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of any planning application where you can;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. **Fettering Discretion in the Planning Process**

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011 that purely making a general comment, without more, is unlikely to be taken as having a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter, provided that you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a member, in giving fair consideration to points raised;
 - are only entitled to take account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

Havant Borough Council CONSTITUTION

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county Councillor), provided:
 - the proposal does not substantially affect the well-being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain where you do not intend to speak and vote as a member of the Committee because you may be perceived as having (pre-)judged the matter or alternatively you reserve the right to judge the matter elsewhere, so that this may be recorded in the minutes. *(Use the disclosure form provided for disclosing interests.)*
- **Do** take the opportunity to exercise your separate speaking rights as a ward member (***where this is granted by the authority's standing orders or by the consent from the Chair and Committee***) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration of that item; and
 - ensure that your actions are recorded.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself – you should ask the Development Control Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, they will ensure that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the Authority's rules on lobbying;

Havant Borough Council CONSTITUTION

- consider whether or not it would be prudent in the circumstances to make notes when contacted; and report to the Development Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other members would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum value, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.
- **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow up the matter.
- **Do** note that, unless you have a DPI or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:

Havant Borough Council CONSTITUTION

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a ward member.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make any relevant decisions.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other member to do so. Political Group Meetings should never dictate how members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward

Havant Borough Council CONSTITUTION

Councillor(s) who should focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit;
 - you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file); and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chairman, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Relationship with Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.

Havant Borough Council CONSTITUTION

- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** make decisions in accordance with the Council's Development Plan and associated documents and neighbourhood plans unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the relevant planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in any annual review of a sample of planning decisions to ensure that members' judgements have been based on proper planning considerations.

PART 5

COUNCILLORS' ALLOWANCES SCHEME

**Havant Borough Council
CONSTITUTION**

[TO BE INSERTED]

Glossary of Terms

**Havant Borough Council
CONSTITUTION**

GLOSSARY OF TERMS USED IN THE CONSTITUTION

Agenda	<p>This sets out the business to be conducted at Council meetings and must be published in advance of the meeting in accordance with legislation and the Access to Information Rules.</p>
Annual Governance Statement	<p>The Annual Governance Statement is a statutory document which explains the processes and procedures in place to enable the Council to carry out its functions effectively.</p> <p>The statement is produced following an annual review of the Council's governance arrangements and the effectiveness of its system of internal control. The statement includes an action plan to address any significant governance issues identified.</p> <p>The Annual Governance Statement is prepared in accordance with the CIPFA Framework. The Annual Governance Statement must be published by the Council by 31 July each year. It is usually published alongside the Council's Statement of Accounts.</p>
Audit Committee	<p>The Audit Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.</p>
Background Papers	<p>Papers which relate to agenda items and meetings and which must be referred to in the reports with the agenda for inspection by the public, in accordance with the Access to information Rules</p>
Best Value	<p>The 'Best Value Duty' is a legal duty on the Council, in accordance with section 3 of the Local Government Act 1999. This general duty of Best Value requires the Council to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.</p> <p>When reviewing service provision the Council should consider overall value, including economic, environmental and social value.</p>
Budget	<p>All the financial resources allocated to different services and projects.</p>

Havant Borough Council CONSTITUTION

With regards to the Council's budget, that means the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and setting virement limits, as a whole.

Budget Council Meeting	The meeting of the Full Council that takes place each year in order to calculate the budget requirement and set the council tax.
Cabinet	The Executive committee comprising the Leader of the Council and up to 9 individual Cabinet members selected by the Leader.
Cabinet member	A member of the Cabinet , with specific responsibilities (a 'portfolio') delegated by the Leader of the Council. Also known as ' portfolio holders ' and Executive members
Call-In	A mechanism, which allows the Overview and Scrutiny Committee to examine, and challenge, an Executive decision before it is implemented.
Chief Executive	The most senior officer, with overall responsibility for the management of the Council, also known as the Head of Paid Service.
Chief Finance Officer	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Section 151 Officer
Chief Officer	The most senior Council staff who are responsible for managing each of the Council's departments, as defined in section 2 of the Local Government and Housing Act 1989. It means the Council's Chief Finance Officer , Monitoring Officer as well as any officers whom report directly to the Head of Paid Service (but does not include secretarial, clerical or support staff). The Council's Executive Directors are chief officers
CIPFA	The Chartered Institute of Public Finance and Accountancy.
Code of Conduct for Councillors	The Code which sets out the standards of behaviour expected of Councillors and co-opted members.

Havant Borough Council CONSTITUTION

Code of Corporate Governance	The Code setting out the Council's governance framework. The Code of Corporate Governance is prepared in accordance with the CIPFA Framework.
Committee	A Committee authorised to make executive or non-executive decisions.
Confidential Information	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
Constituency Coterminous	A constituency having some of the same boundaries as another constituency
Constitution	The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
Contract Standing Orders	The rules which set out how the Council buys goods and services and enters into contracts.
Co-optee/Co-opted	A person appointed to serve on a Committee/Sub-Committee in an advisory capacity. They are not Councillors and are not entitled to vote.
Council companies	A company in which the Council is a shareholder
Councillor	A person elected by voters to be a member of the Council. Also known as a 'member' of the Council.
Council and Cabinet Forward Plan	A list of all major decisions to be made by Council and key decisions to made by Cabinet
Data Protection Legislation	means all privacy laws applicable to personal data including the Data Protection Act 2018 and regulations made under it and the General Data Protection Regulation (Regulation (EU) 2016/679); together with all codes of practice and other statutory guidance issued by the Information Commissioner's Office
Deputy Chief Officers	The second most senior Council staff, whom report directly to the Council's Chief Officers
Designated Officer	For the purposes of officer delegated powers within this Constitution, the term "Designated Officer" shall include the following officers: <ul style="list-style-type: none">• The Chief Executive• Director for Regeneration & Place

Havant Borough Council CONSTITUTION

- Client Relationship Director
- Director for Corporate Services & **Chief Finance Officer (Section 151 Officer)**

Development Plan	Development plan and development plan documents include the local plan, neighbourhood plans, and other information contained in section 38 Planning and Compulsory Purchase Act 2004
Executive	The collective term for the Leader of the Council, individual Cabinet members , the Cabinet or a committee of the Cabinet.
Executive Board	The meeting of Chief Officers, also referred to as Executive Directors
Executive Functions/ Executive Decisions	The majority of the Council's functions, which are the responsibility of the Leader of the Council or if he or she decides by the Cabinet , individual Cabinet members , a committee of the Cabinet, a joint committee, another local authority, or officers. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be non-executive functions are, by default, executive functions.
Executive Director	The Director for Regeneration & Place, the Client Relationship Director and the Director for Corporate Services & Chief Finance Officer (Section 151)
Executive Member	Leader of the Council, Deputy Leader of the Council and other Cabinet members
Exempt Information	Information falling into one of the categories set out in the law which usually cannot be publicly disclosed – see the Access to Information Procedure Rules .
Financial Procedure Rules	The Rules which sets out how the Council's financial procedures operate to safeguard public money
Five Clear Days	<p>The period during which copies of the agenda and reports of a meeting must normally be available for inspection under the Access to Information Procedure Rules. The period of five working days not counting;</p> <ul style="list-style-type: none">• the day of the meeting• the day on which the meeting is called• days which fall at the weekends, public holidays or bank holidays.

Havant Borough Council CONSTITUTION

Full Council	The meeting of all Councillors of the Council
Group Leaders	People appointed by a political group to act as the leader of that group of Councillors.
Head of Paid Service	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive .
Imprest Account	The imprest system is a form of financial accounting system. The most common imprest system is the petty cash system. The base characteristic of an imprest system is that a fixed amount is reserved, which after a certain period of time or when circumstances require, because money was spent, it will be replenished.
Investigation and Disciplinary Committee	The Committee as referred to in the JNC Conditions of Service for Chief Executives and Chief Officers. It is the Committee appointed by the Joint Human Resources Committee to consider disciplinary issues in relation the Council's Chief Executive (Head of Paid Service) , Chief Finance Officer and Monitoring Officer .
Joint Committee	A committee appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.
Key Decision	An executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council. For these purposes, savings and expenditure are "significant" if they are equal to or greater than £250,000. For clarification, no treasury management decision shall constitute a Key Decision.
LA SAAC	Local Authority (Scotland) Accounts Advisory Committee (LASAAC)
Large Scale Major Development	[To be determined, e.g. residential developments of 100 dwellings or more, or 2 HA or more; 5,000 square metres or more, or 2HA or more, of retail, commercial or industrial or other floor space

Havant Borough Council CONSTITUTION

Leader	The person elected as the Leader of the majority party and Leader of the Council. They are responsible for carrying out the executive functions of the Council.
Licensing Committee	The committee that carries out the Council's licensing responsibilities including under the Licensing Act 2003 Act and the Gambling Act 2005.
Local Choice Functions	These are functions specified in Regulations issued under the Local Government Act 2000 Act and which the Council can choose to be either executive or non-executive functions.
Local Government Application Note	The guidance note on the requirements and practice of internal audit in the local government environment, in line with Public Sector Internal Audit Standards .
Mayor of the Council	The Councillor elected each year to act as Mayor of the Council.
Monitoring Officer	The officer charged with ensuring that everything that the Council does is fair and lawful.
Non-Executive Functions	These are functions specified in Regulations issued under the Local Government Act 2000 Act and include functions such as those relating to Officers, Planning and Licensing. Non-executive functions may be delegated to Committees, Sub-Committees or Officers under Section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function .
Officer	A person employed by the Council to carry out the work of the authority. Officers cannot be Councillors
Order	Means a Standing Order in the Rules of Procedure contained in Part 3 of this Constitution
Overview & Scrutiny	<p>Providing support and advice to the Executive by contributing to the review and development of policy; holding the Executive to account by questioning, challenging and monitoring their performance.</p> <p>This function is currently undertaken by the Overview and Scrutiny Committee</p>

Havant Borough Council CONSTITUTION

Planning Committee	The committee of Councillors which makes planning decisions (not delegated to officers) on behalf of the Council.
Planning Protocol	The code of practice which sets out the standards of behaviour expected of members of the Planning Committee when sitting on this committee
Political Balance	<p>Political balance means:</p> <ul style="list-style-type: none">(i) That not all seats on the committee, sub-committee or relevant joint authority or joint committee ("the body") are allocated to the same political group;(ii) That the majority of seats on the body are allocated to a political group holding the majority of seats on the Council;(iii) That, subject to (i) and (ii) above, the total number of seats held by each political group on all committees of the Council taken as a whole is proportionate to that group's membership of the authority; and(iv) That, subject to (i) and (iii) above, the number of seats held by each political group on individual bodies is proportionate to that group's membership of the Council.
Political Group	Two or more Councillors who have joined together and asked to be recognised as a political group.
Politically Restricted Post	Employees in politically restricted posts are prevented from having any active political role either in or outside of work
Portfolios/Portfolio Holder/Responsibility	A portfolio describes the specific responsibilities delegated by the Leader of the Council to a Cabinet member, for which they are the portfolio holder.
Private Meeting	A private meeting' means a meeting or part of a meeting of the Cabinet or a Cabinet Committee during which the public are excluded in accordance with Standing Order 42 (Exclusion of Access by the Public to Meetings).
Procedure Rules	The rules governing the processes of the Council's decision-making

Havant Borough Council CONSTITUTION

Proper Officer	An officer designated as being responsible for a specific function.
Protocols	Codes of Practice, which set out how, for example, various elements of the Council, are expected to interact with each other.
PSAA	Public Sector Audit Appointments Limited, established by the Secretary of State for Housing Communities and Local Government as an appointing person under provisions of the Local Audit and Accountability Act 2014. The PSAA appoint external auditors to local public bodies
Public Sector Internal Audit Standards	The UK Public Sector Internal Audit Standards (PSIAS) have been developed to apply across the whole of the public sector in all sectors of government. The PSIAS are based on standards issued by the Institute of Internal Auditors (IIA), with additional requirements and interpretations that make them directly applicable to the UK public sector. The PSIAS are developed jointly by the relevant internal audit standard setters (RIASS) for central government, local government, devolved government administration bodies and the National Health Service (NHS). The PSIAS set out requirements which apply generally to all UK public sector engagements, but do not include any sector requirements or guidance for specific parts of government.
Quorum	The minimum number of people who have to be present before a meeting can take place.
Section 151 Officer	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Chief Finance Officer
Standards Committee	A Committee responsible for promoting and maintaining high standards of conduct by Councillors and considering written allegations that a Councillor has failed to comply with their Code of Conduct.
Statement of Accounts	The Statement of Accounts inform interested parties of the Council's finances and includes such information as the Council's assets and liabilities at the end of the financial year, the cost of the services provided by the Council and the way in which these services were financed. These must be published by the Council by 31 July each year.

**Havant Borough Council
CONSTITUTION**

Statutory Officers	These are officers that the authority must have in place, some of which may be combined and some of which cannot, but they all have additional personal responsibilities. In this council they are the Head of Paid Service , the Monitoring Officer and the Chief Finance Officer
Sub-Committee	A sub-committee authorised to make executive decisions and non-executive decisions.
Treasury Management	Treasury management functions are those functions carried out in accordance with the approved Treasury Management Strategy. The Chief Finance Officer is responsible for the Treasury Management Strategy.
Virement	Moving funds from one area of expenditure to another.
Whip	The member of a political group appointed to ensure discipline amongst other members of the same political group. A whip's role included ensuring members of the party vote according to the party platform. In certain regulatory functions such as Planning and Licensing, Councillors are required to act independently and are not subject to the group/party whip. Special training is arranged for Councillors for this.