



## **The Constitution**



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## **Introduction**

### **The Council's Constitution**

The Council has adopted this Constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure these are efficient, transparent and the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.

### **Principles of the Constitution**

In seeking to reinforce local democracy, the Constitution is founded on the following principles:-

- (a) The creation of an easily understood system of political management which will provide clear and accountable leadership, which is balanced and challenged in its activities by other Councillors;
- (b) The establishment of an open and streamlined decision making process within which the views of local people are given full consideration; and
- (c) The Council, as leader in the local community, working on behalf of the people of Braintree.

### **What is in the Constitution?**

The Constitution is divided into four chapters which set out the basic rules governing the Council's business. These Chapters are as follows:

- (a) Chapter 1 – Articles of the Constitution  
The Articles explain the rights of members of the public and how the key parts of the Council operate and explains key roles and their responsibilities.
- (b) Chapter 2 – The Procedure Rules  
Contains the Council's Standing Orders and Procedure Rules. These govern how the Council will conduct its business, and provides the framework through which meetings will be conducted.
- (c) Chapter 3 – The Codes and Schemes

Contains the Member Code of Conduct, together with the Members Allowance Scheme and the Member/Officer Relationship Protocol.

(d) Chapter 4 – Responsibility for Functions

This sets out the key delegated powers for each element of the Councils decision making structure.

Article 1 of the Constitution commits the Council to acting within the law to provide clear leadership to the community and to provide services to its community in an efficient, effective and accountable manner.

### **How the Council Operates**

The Council is made up of 49 Councillors (also known as Members) elected every four years. Members are democratically accountable to the residents of their electoral divisions. The overriding duty of Members is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Members are required to follow a local code of conduct to ensure high standards in the way they undertake their duties. The Councils Code of Conduct is set out in Chapter 3 of the Constitution.

All Members meet together as full Council and these meetings are open to the public unless excluded where there is confidential information being discussed. In addition the Council is able to establish Committees which are tasked to deal with specific responsibilities.

The Council is required to appoint the Leader of the Council and the Leader in turn appoints up to nine other Councillors, who together make up the Cabinet (the Executive). The Cabinet are responsible for the Executive Functions. The Cabinet Members each have specific responsibilities and these are known as portfolios, which are determined from time to time by the Leader of the Council. Like with Council, Cabinet is able to establish Committees which are tasked to deal with specific responsibilities.

### **How Decisions are made**

The Council have a number of ways in which decisions can be taken, and responsibility for various aspects of the Councils functions are delegated to various parts of the Council.

All non-executive decisions are taken by Council who determine the overall policies and budget for each year by setting the Budget and the Policy Framework within which all executive decisions taken by Cabinet or a Cabinet Member are made.

Cabinet are responsible for most of the day to day decisions. Decisions taken by Cabinet are known as Executive decisions. Major decisions are known as Key Decisions, and the definition of a Key Decisions can be found in Article 7.

In each instance it is possible for the Council and Cabinet to delegate its responsibilities to a Committee, Sub Committee, or to Officers. The Delegations to Cabinet Members and Officers are set out in Chapter 4 of the Constitution.

### **Overview and Scrutiny**

The Council has appointed four Overview and Scrutiny Committees (Scrutiny Committees) that support the work of the Cabinet and the Council as a whole. The Scrutiny Committees are independent of the Cabinet and no Member of a Scrutiny Committee may exercise Executive Functions.

The Scrutiny Committees have a dual role that covers policy development of the Council and the Cabinet as well as the ability to review of decisions taken by both Council and Cabinet.

### **The Council's Officers**

The Council's employees (called "Officers") give advice, implement decisions and manage the day-to-day delivery of the Council's services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

### **Rights of a Member of the Public**

Members of the Public have a number of rights and these are set out in Article 2. Some of these are established by law, while others depend on the Council's own procedures.



## **Chapter 1**

### **The Articles**



# **Article 1 – The Constitution**

## **1.1 The Council’s Constitution**

This is the Constitution of Braintree District Council.

The Constitution has been produced in accordance with the Local Government Act 2000 as amended by the Localism Act 2011 and should be interpreted in the light of all other relevant legislation.

The Council has adopted this Constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure its decision making is efficient, transparent and the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## **1.2 Purpose of the Constitution**

The Constitution provides a framework which:

- (a) enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (b) support the active involvement of members of the public in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community.

## **1.3 Publication**

The Monitoring Officer will ensure that a current copy of the Constitution is available for inspection at the Council offices and placed on the Council’s website:



[www.braintree.gov.uk](http://www.braintree.gov.uk).

A paper copy can be purchased by members of the public and press on payment of a reasonable fee. Electronic copies are available free of charge.

The Monitoring Officer shall provide a copy of the Constitution to each newly elected Councillor.

#### **1.4 Interpretation**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks aligns to the framework set out in paragraph 1.2 above.

Advice and guidance on the Constitution can be obtained from the Monitoring Officer or the Governance and Members Team. Such advice will have regard to the purpose of this Constitution as set out above.

#### **1.5 Suspension**

The Articles of this Constitution may not be suspended.

The Council Procedure Rules may be suspended to the extent permitted by this Constitution and by law and carried out in accordance with the procedure contained within the relevant set of rules.

The extent and duration of the suspension of the Council Procedure Rules must be proportionate to the result to be achieved and must take into account the purpose of the Constitution as set out above.

#### **1.6 Review of the Constitution**

The Monitoring Officer shall monitor and review the operation of the Constitution annually to ensure that the aim and principles of the Constitution are given full effect.

It is important that the Monitoring Officer is aware of the strengths and weaknesses of the Constitution adopted by the Council and will make recommendations for ways in which it could be amended to better achieve the purposes of this Constitution.

In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised by Councillors, Officers, members of the public and other relevant stakeholders; and

- (d) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

## **1.7 Changes to the Constitution**

Any minor changes and routine updating of the Constitution shall be the responsibility of the Monitoring Officer. All other changes to the Constitution will be approved by the Council after consideration of the proposal by the Governance and Audit Scrutiny Committee.

However, if either:

- (a) the Head of Paid Service makes changes to the organisation of the Council's Officers or the way in which the delivery of the functions is organised at officer level which impact on the specific powers of the Chief Executive, Chief Officers and other officers contained in Chapter 4 of the Constitution (Responsibility for Functions); or
- (b) the Section 151 Officer determines that changes are necessary to the Financial Procedure Rules, contained in Chapter 2 of the Constitution, for the proper administration of the Council's financial affairs; and
- (c) the Chief Officers determine that in the interest of the Council the changes should be implemented in advance of the next available meeting of the Council, then the Chief Officers may make such minimum amendments to those parts of the Constitution referred to above as necessary, provided always that:
  - (i) agreement is obtained from the Chairman of the Council or in their absence the Vice-Chairman of the Council, and
  - (ii) notification of such changes shall be submitted to the next available meeting of the Council for formal approval.

Where the Leader makes changes to the membership of the Cabinet or the Cabinet portfolios, Deputy Cabinet Members, any Committee of the Cabinet, Officers or joint arrangements responsible for the exercise of particular Executive Functions, those changes shall be automatically implemented into the Constitution by the Monitoring Officer without requiring any further approval by Council. Such changes shall be submitted to the next available meeting of the Council for noting.

## **Article 2 – The Public and the Council**

### **2.1 Introduction**

This Article sets out what members of the public can expect from the Council and what rights they have both under relevant legislative provisions and those which are provided by the Council.

The Constitution also sets out how the Council and its Members expect to be treated by members of the public in return.

### **2.2 Members of the Public Rights**

Members of the public have the following rights available to them:

#### **Access to Information**

The Public have a right to:

- (a) have access to information as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (b) attend meetings of the Council, Cabinet, and their respective Committees, except where such attendance is excluded as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (c) find out from the Decision Planner, which incorporates the Forward Plan, what Key Decisions will be taken by the Cabinet and when these are due to take place;
- (d) have access to reports and background papers, and any records of decisions made by the Council and the Cabinet except where such access is excluded as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (e) inspect the Council's accounts and make their views known to the external auditor;
- (f) request and receive information in possession of the Council, as provided for under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, subject to defined exceptions contained within those statutory provisions; and
- (g) contact their local Councillor about any matters of concern to them.

#### **Participation**

Members of the public have a right to participate in the public question time at meetings in accordance with the provisions set out in paragraph 12.11 and to contribute to investigations by the Scrutiny Committees.

## **Voting**

The public registered on the electoral roll for the District have the right to vote for their local Councillor(s) in local elections and to request a referendum for an elected mayor.

## **Petitions**

Members of the public who are registered on the electoral register for the District are able to submit petitions to the Council in accordance with the Councils Petition Policy.

## **Complaints**

The Council takes complaints seriously. Members of the public have the right to complain to:

- (a) The Council under its Corporate Complaints Procedure.
- (b) The Local Government and Social Care Ombudsman or the Housing Ombudsman, after first raising their complaint using the Councils Corporate Complaints Procedure and giving the Council an opportunity to respond; and
- (c) The Monitoring Officer about Councillor Conduct in accordance with the Code of Conduct Complaints Procedure.

For some parts of the Councils activities there are specific statutory processes to appeal a decision, and these should be followed where necessary.

## **Treatment by the Council**

Members of the public have the right to be treated impartially and fairly by the Council.

### **2.3 The Public Responsibilities**

Members of the public must not be violent, abusive or threatening towards Members or its Officers and must not wilfully harm anything owned by the Council, Members or Officers.

The Council reserves the right to suspend services or limit access where there are issues caused as a result of the behaviours of members of the public as set out above.

## **Article 3 – Officers**

### **3.1 General**

The Council may engage Officers as it considers necessary to carry out its functions. The recruitment, selection and dismissal of employees will comply with the Officer Employment and Disciplinary Procedure Rules contained in Chapter 3 of this Constitution.

Officers will comply with all HR policies in place and the Protocol on Member/Officer Relationship contained in Chapter 3 of this Constitution.

The functions set out within this Article are in addition to those delegations to Officers set out in Chapter 4 of this Constitution.

### **3.2 Management Structure**

The senior management structure of the Council comprises of the Chief Officers, who each have responsibilities which may include statutory responsibilities, service areas, corporate strategies and specific projects.

The Chief Officers contribute:

- (a) to the corporate management of the Council,
- (b) represent and promote the Council as a local authority securing high quality services for the people within the District that demonstrates best value; and
- (c) develop partnership working.

At any time when there is no Chief Executive in post, any reference in this Constitution to the Chief Executive shall be construed as a reference to the Head of Paid Service.

The following posts shall be designated as Chief Officers:

- (a) The Chief Executive
- (b) The Corporate Director (Support Services)
- (c) The Corporate Director (Growth)
- (d) The Corporate Director (Operational)

### **3.3 Statutory Officers**

The Council has designated the required statutory posts as follows:

- (a) Chief Executive
  - Head of Paid Service (s.4 Local Government & Housing Act 1985)
- (b) Head of Finance
  - S.151 Officer (s.151 Local Government Act 1972)

- (c) Head of Governance
  - Monitoring Officer (s.5 Local Government and Housing Act 1985)

The post titles as shown above may be varied by the Chief Executive.

### **3.4 The Head of Paid Service**

The Council must appoint a Head of Paid who will be responsible for the following:

- (a) determining and publicising a description of the overall structure of the Council showing the management structure and deployment of Officers, a copy of this will be available on the Councils website; and
- (b) report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

In the absence of the Monitoring Officer or their delegated officer, the Head of Paid Service shall be the qualified person with regards to disclosure of exempt information under S.36 of the Freedom of Information Act 2000.

The Head of Paid Service shall not be the Monitoring Officer but may hold the post of the S.151 Officer if they are a qualified accountant.

### **3.5 The S.151 Officer**

The Council must appoint a s.151 Officer who is responsible for the following:

- (a) After consulting with the Head of Paid Service and the Monitoring Officer, the S.151 Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if, they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) The administration of the financial affairs of the Council and ensure maintenance of an efficient and effective internal audit function.
- (c) To contribute to the corporate management of the Council through the provision of professional financial advice.
- (d) To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) Provide financial information to the media, members of the public and the community.

The S.151 Officer shall not be the Monitoring Officer.

### **3.6 The Monitoring Officer**

The Council must appoint a Monitoring Officer who is responsible for the following:

- (a) Maintaining the Constitution. Subject to the provisions of Article 1, the Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available by Councillors, Officers and members of the public.
- (b) Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the S.151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) To contribute to the promotion and maintenance of high standards of conduct through the support of the Governance and Audit Scrutiny Committee and the Standards Sub-Committee.
- (d) To be the Proper officer to receive complaints for the failure to comply with the Member Code of Conduct.
- (e) To be the Proper Officer for access to information and ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) Advise on whether Cabinet decisions are within the Budget and Policy Framework.
- (g) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (h) To be the primary qualified person with regards to disclosure of exempt information under S.36 of the Freedom of Information Act 2000. In the Absence of the Monitoring Officer or their delegated officer, responsibility for carrying out the functions will fall to the Head of Paid Service.

The Monitoring Officer shall not be the S.151 Officer or the Head of Paid Service.

### **3.7 Duty to Provide Sufficient Resources**

The Council will provide the Head of Paid Service, S.151 Officer and the

Monitoring Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their statutory duties to be performed in accordance with the law.



## **Article 4 – Members of the Council**

### **4.1 Composition and Eligibility**

The Council comprises of 49 Councillors, who represent the 26 Wards within the Braintree District. Members will be elected by the Voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Each Ward may have a number of Councillors who represent it. Although once elected Councillors will make decisions for the whole District and not just for the Ward they were elected for.

Only registered voters for the area of the Council or those living or working or owning land or premises in that area will be eligible to hold office as a Member.

### **4.2 Election and Term of Office**

The regular election of Councillors will be held on the first Thursday in May every four years.

An election was held in 2023 and the next election will be held in 2027.

The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **4.3 The Councillors**

#### **Purpose**

In the performance of the role, the Councillor is required to:

- (a) participate in the good governance of the District;
- (b) contribute actively to the formation and/or scrutiny of the Councils policies, budgets, strategies and service delivery;
- (c) represent effectively the interests of the wards for which each Member was elected and deal promptly with constituents enquiries and representations;
- (d) promote the Councils engagement with all members of the public and groups and ensure that there are opportunities for all views to be heard;
- (e) champion the continuous improvement of the quality of life of the community in terms of equity, economy and environment;
- (f) ensure that the Council's resources are used to achieve the maximum benefit for the people in the District;
- (g) represent the Council effectively when appointed to an outside body;

- (i) act at all times with probity and propriety in the best interest of the Council and in accordance with the Member Code of Conduct; and
- (j) champion the cause for their Ward as far as the Equity Framework for Local Government is concerned.

### **Roles and Responsibilities**

Members shall be responsible for the following duties and responsibilities:

- (a) To fulfil the statutory and locally determined requirements of an elected Member, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the Council;
- (b) To participate effectively as a member of any Committee or Panel to which the Member is appointed, including related responsibilities for the services falling within the Committee's terms of reference, and its liaison with other public bodies to promote better understanding and partnership working;
- (c) To participate in the activities of an outside body to which the Member is appointed, providing two-way communication between the organisations, and representing the policies and practices of the Council. Also, for this purpose, to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community needs and aspirations in respect of that body's role and functions;
- (d) To participate in the scrutiny or performance review of the services of the Council including, where the Council so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council;
- (e) To participate, as appointed, in consultative processes with the community and with other organisations;
- (f) To provide a link between the Council and the community, through the various forums available;
- (g) To develop and maintain a working knowledge of the Council's services, management arrangements, functions/duties and constraints, and to develop good working relationships with relevant officers of the Council;
- (h) To develop and maintain a working knowledge of the other organisations and services which serve the District;
- (i) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process;

- (j) To conduct the business of the Council within the Council and not through the written or broadcast media;
- (k) To find a suitable substitute and to brief them on the meeting, on occasions when personal attendance is not possible in accordance with paragraph 12.23;
- (l) To identify individual learning and development needs and participate fully in training opportunities provided;
- (m) not to make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or Officer entitled to know it;
- (n) Maintain the highest standards of conduct and ethics in accordance with the Member Code of Conduct and the Nolan Seven Principles of Public Life; and
- (o) attend at least one meeting of the Council every six months.

#### **4.4 The Chairman of the Council**

The Chairman of the Council and the Vice-Chairman will be elected by the Council annually. The appointment will be for a single municipal year; however it will be permissible for the Chair or the Vice-Chair to serve in future years.

The Chairman or the Vice-Chairman may not hold office as the Leader, Deputy Leader or be a member of Cabinet during their term of office.

The duties and responsibilities set out below are in addition to their role as a Councillor, as set out in paragraph 4.3.

##### **Purpose**

The Chairman is required to:

- (a) provide effective civic and ceremonial leadership to the Council;
- (b) chair the meetings of full Council and ensure its business is carried out efficiently and in line with the Constitution; and
- (c) act as an ambassador for the Council and the District itself.

##### **Duties and Responsibilities**

The Chairman will hold the following duties and responsibilities:

- (a) To be politically impartial and uphold the democratic values of the Council;
- (b) To represent the Council at civic and ceremonial functions, acting on behalf of and supported by the Whole Council in a non-partisan manner;

- (c) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (d) To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet to account;
- (e) To uphold and promote the purposes of the Constitution and to interpret the Constitution, in consultation with the Monitoring Officer, when necessary;
- (f) To promote public involvement in the Council's activities by recognising and thanking those individuals and organisations who have brought success to the District;
- (g) To provide fair and visible civic leadership to the Council and promote active citizenship;
- (h) To act as a link between the Council and various groups and organisations within the District;
- (i) To maintain an overview of the needs and concerns of the community they serve;
- (j) To raise the profile of the Council and the District and to promote the aims and values of the Council within the community;
- (k) To attend such civic and ceremonial functions of the Council as they determine appropriate; and
- (l) To provide support and advice to all Members.

#### **4.5 The Vice-Chairman**

The Vice-Chairman shall fulfil the duties and responsibilities set out above on behalf of the Chairman of the Council in their absence, and at all other times to assist the Chairman as required.

#### **4.6 The Leader of the Council (the Leader)**

The Leader is appointed by the Council at its first annual meeting following the ordinary election of District Councillors.

The Leader shall be chosen from the majority political party group within the Council membership, and the leader of that political party group will be the Leader of the Council. Where there is no majority political party group within the Council, the Leader will be a Councillor elected to that position by the Council.

The Leader will hold office for a period of 4 years or until the Leader's ordinary term of office as a Councillor expires (whichever is the shorter). The Leader shall continue to hold office until:

- (a) they resign from the office;
- (b) they are no longer a Councillor; or
- (c) they are removed from office by a resolution of the Council.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at an Extraordinary meeting summoned for that purpose. The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next Ordinary or Extraordinary meeting of the Council, the Deputy Leader will act as the Leader on an interim basis.

The duties and responsibilities of the Leader as set out below, are in addition to their role as a Member and their role as a Cabinet Member.

### **Purpose**

The Leader is required to:

- (a) provide political leadership and strategic direction for the Council;
- (b) ensure effective corporate governance;
- (c) act as an ambassador for the Council;
- (d) provide stewardship of the Council and its resources;
- (e) work closely with other Cabinet Members to ensure the development of effective policies and high-quality services to the people of the District;
- (f) guide policy and strategy proposals through the Council where the final decision rests with the Council;
- (g) maintain professional working relationships and establish mutual respects with the Chairmen of the Council's regulatory committees and Scrutiny Committees and with all other Councillors and Officers;
- (h) be a promoter and upholder of equalities and high standards of ethical conduct; and
- (i) to ensure the Council delivers high quality, value for money services.

### **Duties and Responsibilities**

The Leader will hold the following duties and responsibilities:

- (a) All Executive functions of the Council are vested by law in the Leader;
- (b) To work with relevant Cabinet Members in developing revenue budget and capital programme strategies and ensuring probity and financial monitoring;
- (c) To appoint or dismiss Cabinet Members and to determine the allocation of portfolios for subsequent notifications to the Council;
- (d) To chair the meetings of Cabinet;
- (e) To exercise executive functions not allocated to either the Cabinet or to Cabinet Members, or to delegate such functions to another Cabinet Member or Committee or Officer;
- (f) To appoint or dismiss Cabinet Committees and Sub-committees and determine their Membership;
- (g) To be the key contact for outside organisations;
- (h) To be the key interface between the Members and Chief Officers for the strategic management of the Council;
- (i) To be the representative voice of the Council, including but not limited to its dealings with Central Government, other Local Authorities and their Associations and positively promote the Council as a whole in the media;
- (j) To act as the political spokesperson for the Council; and
- (k) To promote the long term financial, business and economic stability of the Council.

#### **4.7 The Deputy Leader of the Council (The Deputy Leader)**

The Leader shall appoint a Cabinet Member to be the Deputy Leader.

The duties and responsibilities of the Deputy Leader, as set out below, are in addition to his role as a Councillor as set out in paragraph 4.3 and their role as a Cabinet Member contained in Article 5.

Any exercise of function by the Deputy Leader will be subject to any limitations, qualifications or other instructions as may be issued by the Leader in writing to the Chief Executive either generally or in relation to the exercise of a particular function.

Where a vacancy occurs in the office of Deputy Leader, the Leader shall appoint another Cabinet Member in their place.

## **Purpose**

The Deputy Leader is required to:

- (a) assist and work with the Leader to provide effective political leadership and strategic direction for the Council;
- (b) assist and work with the Leader in delivering their responsibilities to the Council within their role profile as set out above; and
- (c) where appropriate and permissible under the Council's Constitution, to act in the absence of the Leader.

## **Duties and Responsibilities**

The Deputy Leader will hold the following duties and responsibilities:

- (a) to deputise for the Leader in their absence from Council and Cabinet meetings;
- (b) in the Leaders' absence, carry out the requirements of the Leader role profile as set out above, so far as legally possible and permissible; and
- (c) to carry out such other duties and undertake portfolio responsibility as delegated by the Leader.

### **4.8 Rights of all Councillors**

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

### **4.9 Conduct of Councillors**

All Councillors will abide by their obligations under the Member Code of Conduct and the Member/Officer Relationship Protocol as set out in Chapter 3 of the Constitution.

### **4.10 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Chapter 3 of this Constitution.

## **Article 5 – The Council**

### **5.1 Introduction**

The Local Government Act 2000 (as amended by the Localism Act 2011) gives the Council responsibility for approving the Budget and Policy Framework. The Council as a whole retains responsibility for regulatory functions and has a role in holding the Cabinet to account.

### **5.2 Functions of Council**

Only the Council will exercise the following functions:

- (a) To adopt and approve changes to the Constitution in accordance with the procedure set out in Article 1.
- (b) To adopt and approve changes to the Members' Allowance Scheme;
- (c) Approval of the Budget and the Policy Framework;
- (c) To take decisions in respect of any recommendation made by the Cabinet or Committees which would be contrary to the Budget and Policy Framework;
- (d) To take decisions in respect of functions which must by law be reserved to the Council, Local Choice Functions that Council has decided to reserve to itself as set out in Chapter 4 of this Constitution or other functions that are not the responsibility of Cabinet and/or have not been delegated to Committees, Sub-Committees or Officers;
- (e) Elect the Chairman of the Council and appoint the Vice Chairman of the Council at its annual meeting;
- (f) Appoint the Leader;
- (g) Approve the terms of reference for Council Committees, deciding on their composition and making appointments to them, and any changes to them;
- (h) Appoint representatives to outside bodies unless the appointment is an executive function or has been delegated by Council;
- (i) Appoint and dismissal of the Head of Paid Service, Monitoring Officer and the S.151 Officer;
- (j) Consider reports of the Monitoring Officer and the S.151 Officer issued in pursuance of their respective statutory duties;
- (k) To hold the Leader, Cabinet Members and Committee Chairmen to account;
- (l) Make, amend, revoke, re-enact or adopt byelaws and promote or oppose



the making of local legislation or private Bills;

- (n) Respond to appropriate bodies with regard to boundary reviews or other electoral issues including for example the designation of the acting or local returning officer for the purposes of a county, European, parliamentary or other form of election or referendum;
- (o) all those functions detailed in Parts C,D,E,F,G,H and I of Schedule 1 of The Local Authorities (Functions and Responsibilities)(England) Regulations 2000, (as amended); and
- (p) All other matters which, by law, must be reserved to Council.

### **5.3 Responsibility for Functions**

The Council will maintain Chapter 4 of this Constitution which sets out the responsibilities for the Councils Functions which are not the responsibility of the Cabinet.

### **5.4 Council Meetings**

There are three types of Council Meetings:

- (a) The Annual meeting;
- (b) Ordinary meetings; and
- (c) Extraordinary meetings;

and they will be conducted in accordance with the Councils Procedure Rules set out in Chapter 2 of this Constitution.

### **5.5 The Policy Framework**

The Council is responsible for the approval of the Policy Framework, which shall be refreshed at least every three years.

The Policy Framework is developed in line with the Budget and Policy Framework Procedure Rules set out in Chapter 2 of this Constitution.

The Policy Framework means the following plans and strategies:

#### **Mandatory Plans and Strategies**

- (a) Crime and Disorder Annual Partnership Plan
- (b) Local Transport Plan
- (c) Licensing Policy Statement (Licensing Act 2003 and Gambling Act 2005)
- (d) Plans with Development Plan Document Status;

#### **Plans and Strategies Adopted as part of the Policy Framework**

- (e) Sustainable Community Strategy
- (f) Local Plan

- (g) Corporate Strategy
- (h) Medium Term Financial Strategy

## **5.6 The Budget**

The Budget means the Councils Budget as approved by the Council.

The Budget includes 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 Councils borrowing requirements, the control of its capital expenditure and the setting of virement limits.

## **Article 6 – The Cabinet**

### **6.1 The Cabinet**

The Council has adopted executive arrangements as permitted by the Local Government Act 2000, as amended. The Cabinet is responsible for the day to day decision making process and for exercising all executive functions.

The Cabinet will lead the implementation of the Councils Policies within the Budget and Policy Framework. In doing so the Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

Executive functions can be exercised by the Cabinet, under joint arrangements or they can be delegated to individual Cabinet Members, Cabinet Committees or Officers and cannot be exercised by the Council.

The Cabinet cannot take decisions on matters which they are prohibited from making by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other subsequent legislation.

### **6.2 Composition of Cabinet**

The Cabinet will consist of the Leader together with at least two, but not more than nine, additional Councillors, known as Cabinet Members.

The Chairman of the Council shall not be member of the Cabinet.

Subject to the legal minimum and maximum, the size and composition of the Cabinet is a matter solely for the Leader to decide.

#### **Deputy Cabinet Members**

From time to time, the Leader may appoint Deputy Cabinet Members who may assist and work with the Cabinet Members in the exercising of the roles and responsibilities.

As a Deputy Cabinet Member, they will be entitled to attend and participate in any debate at Cabinet but will not be able to vote on any item which falls to be determined at a Cabinet meeting.

They will be able to attend any other meetings with the Cabinet Member or in their absence and will be able to participate in the debate, but will not be able to vote on any item which falls to be determined at that meeting.

Deputy Cabinet Members will not have decision making powers (executive or otherwise).

Any Councillor appointed as Deputy Cabinet Member shall remain until they either resign from the role, cease to be a Councillor or the Leader notifies the Chief Executive that their appointment has ceased.

## **Cabinet Support Members**

From time to time, the Leader may appoint Cabinet Support Members who may assist and work with the Cabinet Members in the exercising of their roles and responsibilities.

As a Cabinet Support Member, they will be entitled to attend a Cabinet meeting. At the discretion of the Leader, they may be able to participate in the debate, but they will not be able to vote on any item which falls to be determined at a Cabinet meeting.

They will be able to attend any other meeting with the Cabinet Member or in their absence and will be able to participate in the debate, but will not be able to vote on any item which falls to be determined at that meeting.

Cabinet Support Members shall not have decision making powers (executive or otherwise).

Any Councillor appointed as Cabinet Support Member shall remain until they either resign from the role, cease to be a Councillor or the Leader notifies the Chief Executive that their appointment has ceased.

## **6.3 Functions of the Cabinet**

The Cabinet shall exercise the following functions:

- (a) To lead the Councils community planning process and has responsibility for ensuring best value;
- (b) Lead the preparation of the Councils Policies, Statutory Plans, Strategies except where reserved to the Council, and the Budget;
- (c) Take decisions on resources and priorities to deliver and implement the Councils policies and Budget;
- (d) Make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework;
- (e) Review the use and allocation of assets and resources within the approved Budget;
- (f) Make Key Decisions within the agreed Budget and Policy Framework;
- (g) Performance monitoring and management;
- (h) So far as the responsibilities may arise under relevant legislation, the Cabinet may exercise the local choice functions set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and
- (i) Appoint representatives to outside bodies unless the appointment is a Council function.

All Executive decisions will be taken in accordance with the Cabinet Procedure Rules contained in Chapter 2 of this Constitution.

#### **6.4 Excluded Functions**

Cabinet shall not exercise Council Functions as set out in Article 5, or any non-executive function retained by Council or which have been delegated to a Committee, sub-committee, joint committee or to an Officer as set out in this Constitution.

No Cabinet Member, Cabinet Committee or Officer shall take a Key Decision, unless as permitted within this Constitution. Key Decisions are reserved for Cabinet only.

#### **6.5 The Cabinet Members**

##### **Appointment of Cabinet Members**

The Leader will appoint the Cabinet Members.

Only Councillors who are Members of the Council may be appointed to become Cabinet Members.

The Leader shall give notice of their appointments or any changes to appointments to the Chief Executive immediately after they are made, and report those changes to the next available meeting of the Council. Any removal of a Cabinet Member will take effect on the date specified in the notice or if no date is specified, immediately upon receipt of the notice by the Chief Executive.

Each Cabinet Member shall hold office for the duration of the Leaders term of office, unless within that period:

- (a) they resign from Cabinet by giving notice in writing to the Leader, copied to the Chief Executive; or
- (b) they cease to be a Member of the Council; or
- (c) they are removed from Cabinet by the Leader.

Upon the occurrence of a vacancy of a Cabinet Member, the vacancy shall be filled by the Leader.

##### **Purpose**

In the performance of the role, Cabinet Members are required to:

- (a) to provide collective and individual leadership as part of the Cabinet;
- (b) to undertake lead responsibility for their allocated portfolio as set out in Chapter 4 of this Constitution; and

- (c) to contribute effectively towards the strategic direction of the Council.

### **Duties and Responsibilities**

Cabinet Members shall be responsible for the following duties and responsibilities:

- (a) To work with the Leader and all other Cabinet Members to ensure coherent direction and action by the Council, acting in accordance with Council decisions and ensure that the Cabinet is informed of events, activities and proposals and involved in all decisions which should be taken collectively;
- (b) Provide political leadership on the activities relating to their assigned portfolio;
- (c) Lead on policy development within their portfolio and make recommendations to the Cabinet;
- (d) Exercise Executive functions as set out in Chapter 4 of this Constitution;
- (e) Act as an ambassador for the Council, promoting its work (particularly in those areas relevant to their portfolio or where the Cabinet Member has been designated by the Leader, to lead or take a special interest) and participating in consultation, listening to and taking account of the views of organisations, the public and businesses; and
- (f) Provide information required by any of the Councils Scrutiny Committees within the prescribed timescale and were requested to appear before such a Committee in connection with any issues associated with the portfolio that are being scrutinised, or are the subject to Call In;
- (g) To positively promote their respective portfolio and where appropriate act as the spokesperson with the media for that portfolio area only.
- (h) In connection with their respective portfolios:
  - (i) Build good working relationships with appropriate Senior Officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with problems at a strategic level.
  - (ii) To keep abreast of related developments and policies at national, regional and a local level;
  - (iii) To enhance the Councils reputation;
  - (iv) Aim for the Council to be at the forefront of service development and provision where possible; and
  - (v) Be aware and of key budgetary issues affecting the portfolio.

## 6.6 Delegation of Functions

The Leader may delegate functions to a Cabinet Member, a sub-committee of Cabinet, the Chief Executive, a Senior Officer under whose managerial responsibility the executive function falls or any other Officer. Any matter not specifically delegated remains the responsibility of the Leader.

Even where an executive function has been delegated to a Cabinet Member, a sub-committee of Cabinet or Officer, the Leader has the right to take that decision or refer it to Cabinet where the circumstances are particularly sensitive or if the decision in question involves changes to policy or strategy.

A decision that is legally within the power of the Cabinet to make, that is not a Key Decision, can be taken by a Cabinet Member, a sub-committee of Cabinet or an Officer, where they hold delegated authority as set out in Chapter 4 of this Constitution.

The Leader shall maintain Chapter 4 of this Constitution setting out which Cabinet Members, Officers or Joint arrangements are responsible for the exercise of Executive functions.

The Leader may make in year changes to the Cabinet Member scheme of delegation as set out in Chapter 4 of this Constitution and shall inform the Chief Executive in writing in advance of making any change. Any change to the scheme of delegation must be reported to the next meeting of Cabinet.

The Leader may at their discretion establish sub-committees, Project Reference Groups or working group of Cabinet to discharge the Executive functions delegated to them.

The Monitoring Officer shall maintain a list of all sub-committees, Project Reference Groups and Working Groups of Cabinet.

For the avoidance of doubt the following Sub-committees, Project Reference groups and Working Groups have been established by the Leader:

- (a) Sub- Committees
  - (i) Local Plan Sub-Committee
- (b) Working Groups
  - (ii) Developing Democracy Group
  - (iii) Member Development Group
- (c) Reference groups
  - (iv) As listed on the Councils Website.

Agendas for all Cabinet Sub-Committees and Working Groups will be published in accordance with the provisions of the Access to Information Procedure Rules and will be supported by the Governance Team.

Meetings of the Working Groups and Project Reference Groups will be held in private and will be supported by the Lead Officer as appointed.



## **Article 7 – Decision Making**

### **7.1 Principles of Decision Making**

In order that decision making is efficient, transparent and accountable, all decisions of the Council (whether taken by full Council, the Cabinet, Committees, Cabinet Members or Officers) will be based on the following principles and in accordance with the procedure rules set out in Chapter 2 of this Constitution:

- (a) the action taken will be proportionate to the desired outcome;
- (b) decisions will be taken following due consultation and taking into consideration professional advice from Officers;
- (c) due regard will be shown for human rights and all decisions will be based on balancing the rights of the individual against the public good;
- (d) open transparent decision making;
- (e) clarity in the aim and desired outcome of the decision;
- (f) explanations of the options considered and the giving of reasons for the choices made; and
- (g) decisions will be taken that comply with the law and this Constitution.

### **7.2 Responsibility for Decision Making**

The Council will issue and keep up to date a record of those Officers or parts of the Council that has responsibility for particular types of decisions. This record is contained in Chapter 4 of the Constitution.

### **7.3 Types of Decisions**

Decisions and reasons for all decisions shall be recorded.

#### **Decisions taken by Full Council**

Decisions relating to the functions listed in Article 5 will be made by full Council and shall not be delegated.

The meeting of full Council will follow the Council Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

#### **Decisions taken by Cabinet**

The Cabinet will follow the Cabinet Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

## **Decisions taken by Cabinet Members**

A Cabinet Member may take decisions in accordance with those functions delegated to them as contained in Chapter 4 of this Constitution and the provisions set out in paragraph 15.23 of the Access to Information Procedure Rules.

## **Decisions taken by the Scrutiny Committees**

The Scrutiny Committees will following the Scrutiny Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

## **Decisions by Committees**

All Committees, sub-committees, Reference Groups and Working Groups will follow those parts of Chapter 2 of this Constitution as they apply to them.

## **Decisions by Council bodies acting as tribunals**

The Council, a Member or an Officer acting as a tribunal or in a quasi-judicial manner or determining or considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Decisions taken by Individual Officers**

Officers may take decisions in accordance with the functions delegated to them as contained in Chapter 4 of this Constitution and in accordance with the provisions of paragraph 15.24 of the Access to Information Procedure Rules.

## **7.4 Decision Planner**

Details of all decision to be taken by Cabinet shall be published in the Decision Planner which incorporates the Forward Plan. The Decision Planner may also contain details of those decisions to be taken by Council and Committees.

The Decision Planner covers a three-month period and is published on the Council's website on a monthly basis.

## **7.5 Key Decisions**

A "Key Decision", as set out in the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, is a decision of Cabinet which is likely to either:

- (a) Result in the Council incurring expenditure or making savings which are in excess of £150,000 except as otherwise determined under financial regulations; or
- (b) to be significant in its effects on communities living or working in an area comprising two or more Wards in the District.

A Key Decision will also include those decisions which will have a material effect on the Council's services, including but not limited to:

- (a) A significant number of users of the service in the Ward(s) will be affected;
- (b) An impact that will last for a number of years or be permanent;
- (c) A significant impact on communities in terms of environmental and social well-being;
- (d) An existing service or access to an existing service ceasing altogether;
- (e) A decision that involves any new policy or strategy or which forms part of the development of or a change to the Budget and Policy Framework; or
- (f) Consideration of any matter which will result in a recommendation to Council.

## **7.6 Non-Key Decisions**

The following are examples of non-key decisions:-

- (a) Implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the Budget and Policy Framework;
- (b) Implementing approved actions and targets in annual service plans;
- (c) Decisions by the S.151. Officer which are part of the ordinary financial administration of the Council, notably those relating to investments, within the agreed Treasury Management Policy;
- (d) Implementing projects for which specific conditions have been attached by external funders, such as the Government or European Union;
- (e) The award of contracts for the provision of works, goods and services, within an agreed Budget and Policy Framework and where a Key Decision has already been made; and
- (f) Changes arising from amendments to statute where there is little or no discretion.

## **Article 8 – Council Committees**

### **8.1 Introduction**

The Council has appointed the following Committees to discharge the Councils functions delegated to them.

Each of the Committees will conduct its business in accordance with the Council Procedure Rules and Access to Information Procedure Rules as contained in Chapter 2 of this Constitution, and will meet in public unless the nature of the business is such that the press and public must be excluded or the Committee determined that the press and public should be excluded in accordance with the provisions contained in the Access to Information Procedure Rules.

### **8.2 Planning Committee**

#### **Purpose of the Planning Committee**

The purpose of the Planning Committee is to act for the Council on matters involving the functions of a Local Planning Authority.

#### **Composition of the Planning Committee**

It shall comprise of 14 seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

#### **Functions of the Planning Committee**

The Planning Committee shall perform the functions set out in the Scheme of Delegation contained in Appendix D of Chapter 4 of this Constitution and shall be responsible for.

- (a) To exercise the Council's statutory duties in respect of the Building Regulations and associated legislation.
- (b) To do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of those functions.
- (c) To exercise all powers, duties and functions of the Council contained within or referred to in statutory provisions from time to time in force within the terms of reference of this Committee.
- (d) So far as the responsibilities may arise under the relevant legislation, functions set out in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other town and country planning and development control functions.

## **8.3 Licensing Committee**

### **Purpose of the Licensing Committee**

The purpose of the Committee is to act for the Council in respect of licensing, registration and environmental protection functions and Animal Welfare Legislation. The Licensing Committee's powers include the power to:

- (a) discharge the licensing functions on behalf of the Licensing Authority, as determined under the Licensing Act 2003 and Gambling Act 2005; in practice this will normally be undertaken by a Sub-Committee known as the Licensing Sub-Committee Hearing;
- (b) determine licences for hackney carriages/private hire vehicles and their drivers and operators; in practice this will normally be undertaken by a Sub-Committee known as the Drivers' Panel;
- (c) To discharge any licensing and regulatory Functions not reserved to Cabinet; and
- (d) to determine licences for market and street trading etc.

### **Composition of the Licensing Committee**

It shall comprise of 14 seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

### **Functions of the Licensing Committee**

The Licensing Committee will perform the following functions in accordance with the Scheme of Delegation set out in Appendix A–C contained in Chapter 4 of this Constitution:

- (a) To deal with all matters which are the responsibility of the Council in relation to:
  - (i) hackney carriage and private hire vehicles, drivers and operators licensed by the Council;
  - (i) the Licensing Act 2003;
  - (ii) the Gambling Act 2005;
  - (iii) Animal welfare legislation; and
  - (iv) the Dangerous Wild Animals Act 1976;

Except where matters are statutory reserved to Council or have been delegated to an Officer as set out in Chapter 4 of the Constitution.

- (b) To deal with all matters and determined applications which are the responsibility of the Council in relation to street trading consents under Section

3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, and Pavement Permits under the Highways Act 1980;

- (c) To deal with all matters which are the responsibility of the Council under the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of Sex Establishments;
- (d) To set the charging policy, fees and tariffs in relation to functions which fall within their duties and responsibilities;
- (e) To approval operational policies in relation to functions which fall within their duties and responsibilities;
- (f) To discharge any licensing and regulatory functions not reserved to Cabinet; and
- (g) So far as the responsibilities may arise under the relevant legislation, functions set out in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other licensing, registration and environmental protection functions.

The Licensing Committee can:

- (a) establish one or more Sub-Committees to deal with licensing hearings, consisting of three members of the Licensing Committee together with one reserve;
- (b) establish one or more Sub-Committees to deal with Drivers Panel hearings, consisting of four members of the licensing Committee;
- (c) arrange for all matters to be determined by way of a hearing to be determined by a Sub-Committee; and
- (d) arrange for the discharge of any functions exercisable by it by either a sub- committee or an officer.

## **8.4 Other Committees**

### **Independent Remuneration Panel**

The Independent Remuneration Panel will perform the duties and responsibilities as described in the Local Authorities (Members' Allowances) (England) Regulations 2003.

The Panel will comprise of at least 3 members who will be recruited in accordance with the statutory requirements.

### **The Appointment Committee**

The Appointment Committee will perform the duties and responsibilities as set out in the Officer Employment Procedure Rules.

The Appointments Committee will comprise of the:

- Leader of the Council,
- Leader of the Opposition,
- The Chairman of the Corporate Scrutiny Committee; and
- three Cabinet Members relevant to the appointment being made.

The Cabinet Member Appointment Committee members will be appointed by the Leader.

For the appointment of the Chief Executive/Head of Paid Service, the above membership shall be amended by the Council to ensure that there is representation of all political groups within the Membership.

## **Article 9 –Scrutiny Arrangements**

### **9.1 Purpose of Scrutiny**

Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision making process. The Scrutiny Committees have overall responsibility for the performance of all overview and scrutiny functions (under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 as amended) on behalf of the Council and ensuring its effectiveness.

The Councils Scrutiny arrangements shall comprise of the Corporate Scrutiny Committee;

which shall be supported by the work conducted by:

- (a) the Governance and Audit Committee; and
- (a) the Corporate Policy Committee.

### **9.2 The Corporate Scrutiny Committee**

The Corporate Scrutiny Committee shall have 13 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Corporate Scrutiny Committee will perform the following functions:

- (a) shall be responsible for the Councils formal statutory call in functions, including to consider and call in decisions relating to the discharge of Cabinet functions before those decisions are put into effect. The Corporate Scrutiny Committee can ask the Cabinet to reconsider any such decision;
- (b) To consider decisions relating to the discharge of Cabinet functions after they are put into effect;
- (c) To consider the Decision Planner and to comment as appropriate to the decision maker on Key Decisions before they are taken by the Cabinet;
- (d) To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through the establishing of a task and finish group;
- (e) To make suggestions on the development of policies and suggest new policies where appropriate;
- (f) To work with or appoint representatives to work with other local authorities to carry out joint scrutiny;
- (g) To assist the Cabinet in the development of the Budget and Policy Framework in accordance with the Budget and Policy Framework Procedure Rules;



- (h) To receive and consider recommendations on issues requiring scrutiny under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 as amended and where appropriate establishing Task and Finish groups for those purposes;
- (i) To exercise the power assigned to a crime and disorder scrutiny committee under the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006;
- (j) To receive reports, presentations and updates in order to scrutinise the Cabinet's priorities; and
- (k) To review and scrutinise the performance of the Cabinet, the Cabinet Members and appropriate officers in relation to individual decisions.

### **9.3 The Governance and Audit Committee**

The Governance and Audit Committee shall comprise 13 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The purpose of the Governance and Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non- financial performance, to the extent that it affects the Council's exposure to risk and weakens the control environment and to oversee the financial reporting process.

The Governance and Audit Committee is also responsible for promoting and maintaining high standards of Member conduct.

The Governance and Audit Committee will perform the following functions:

#### **Governance, Risk and Control**

- (a) To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework, and to consider the local code of governance ensuring arrangements are adequate and operating effectively in practice;
- (b) To review the Annual Governance Statement before approval by the Cabinet, and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control;
- (c) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;
- (d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council;

- (e) To monitor the effective development and operation of risk management in the Council, including the progress in addressing risk-related issues reported to the Committee;
- (f) To endorse the annual Risk Management Strategy and recommend it to the Cabinet for adoption;
- (g) To consider reports on the effectiveness of the internal control environment and monitor the implementation of agreed actions;
- (h) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption;
- (i) To monitor the Counter Fraud Strategy, actions and resources;
- (k) To review the governance arrangements for significant partnerships or collaborations.

### **Internal Audit**

- (a) To approve the Internal Audit Charter;
- (b) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources;
- (c) To approve significant interim changes to the risk-based internal audit plan and resource requirements;
- (d) To make appropriate enquiries of management and the Internal Audit Manager (as Head of Audit) to determine if there are any inappropriate scope or resource limitations;
- (e) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Audit Manager (as Head of Audit), and to approve and periodically review safeguards to limit such impairments;
- (f) To consider reports from the Audit Manager (Head of Audit) on internal audit performance, including key findings from audit work, issues of concern, the results of the Quality Assurance and Improvement Programme (QAIP), conformance to the Public Sector Internal Audit Standards (PSIAS) and any areas to include in the Annual Governance Statement (AGS);
- (g) To consider the Audit Manager (Head of Audit) Annual Report, including the conformance with PSIAS and the results of the QAIP as indicators of the reliability of internal audit conclusions, and the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with a summary of the work supporting the opinion;

- (h) To consider summaries of internal audit findings, including those where the Audit Manager (Head of Audit) has concluded that management has accepted a level of risk which may be unacceptable to the Council, or where there are concerns about the implementation of agreed actions;
- (i) To contribute to the QAIP, in particular to the external quality assessment of internal audit which takes place at least once every five years;
- (j) To consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement; and
- (l) To provide free and unfettered access to the Audit Committee Chair for the Audit Manager (Head of Audit), including the opportunity for a private meeting with the Committee.

### **External Audit**

- (a) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments or the Council's auditor panel;
- (b) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance, and other specific reports as agreed with the external auditor;
- (c) To comment on the scope and depth of external audit work and to ensure it gives value for money;
- (d) To commission work from internal and external audit; and
- (e) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial Reporting**

- (a) To review the annual Statement of Accounts, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that require to be brought to the attention of the Council; and
- (b) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

- (a) To report to the Council on their findings, conclusions and recommendations concerning the adequacy and effectiveness of governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions;

- (b) To report to the Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose; and
- (c) To publish an annual report on the work of the Committee.

### **Governance Arrangements**

- (a) Promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council;
- (b) Advising and assisting Parish Council(s) and Councillors to maintain high standards of conduct and to make recommendation to Parish Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- (f) Advising the Council upon the contents of, and requirements for, codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (g) Maintaining oversight of the Council's arrangements for dealing with complaints;
- (h) Informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (i) Granting exemptions to politically restricted posts;
- (j) To set the allowances and expenses of the Independent Person and Reserve Independent Person, in consultation with the Corporate Director (Support Services);
- (k) To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council assessment criteria;
- (l) Hearing and determining complaints, through referral to the Standards Sub Committee, about Members and Co- opted Members referred to it by the Monitoring Officer;
- (m) To grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011;

- (n) Hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011;
- (o) To consider and report on any matter relating to the Councils; and
- (p) Functions not reserved to any other Scrutiny Committee.

#### **9.4 The Corporate Policy Committee**

The Corporate Policy Committee shall have 13 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Corporate Policy Committee will perform the following functions in line with a work programme agreed with Cabinet:

- (a) To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through the establishing of a task and finish group;
- (b) To make suggestions on the development of policies and suggest new policies where appropriate; and
- (c) To work with or appoint representatives to work with other local authorities to carry out joint scrutiny.

The work programme will not include matters relating to Planning or Licensing Policies or such matters reserved to Council.

#### **9.5 The Standards Sub-committee**

The Sub-Committee shall be supported by 2 co-opted non-voting parish/town council representatives nominated by the Braintree Association of Local Councils (where the matter concerns a Parish Councillor) and one Independent Person or in their absence a Reserve Independent Person.

The Chair shall be appointed by the Sub-Committee at each meeting and requires at least 3 or more voting members to be quorate.

The duties and responsibilities of the Standards Sub-Committee are:

- (a) To promote and maintain high standards of conduct; and
- (b) To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Member Code of Conduct.

#### **9.6 The Scrutiny Chairman Committee**

The Scrutiny Chairman Committee shall comprise of all of the Chairmen of the Scrutiny Committees, and will be responsible for the following functions:

- (a) To have overall responsibility for the direction and management of the Councils Scrutiny Functions;

- (b) To ensure that the scrutiny activities reflect the aims of the Organisation Strategy and adds value to the Council;
- (c) To champion scrutiny within the Council;
- (d) To Co-ordinate the work of the Scrutiny Committees;
- (e) To approve an annual scrutiny work programme;
- (f) To ensure that cross-cutting review are properly dealt with;
- (g) Keep the Council informed of the scrutiny work programme; and
- (h) To raise issues with Cabinet Members, the Chief Executive and the Leader as appropriate.

## **9.8 Excluded Functions**

The functions and the work programme of the Scrutiny Committees will not include the following matters:

- (a) Any matter relating to a decision on a specific planning application;
- (b) Any matter relating to a decision on a specific licensing application;
- (c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment, including but not limited to:
  - (i) Standards decisions and items which may be brought for decision;
  - (ii) Breaches of the Constitution;
  - (iii) Matters relating to the terms and conditions of employment or conduct of individual or groups of staff or Members;
  - (iv) Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda;
- (d) Audit process and items which are likely to be considered by the audit process;
- (e) Matters within the proper remit of the Monitoring Officer or S.151 Officer;
- (f) Matters relating to a particular identifiable service recipient or potential service recipient;
- (g) Complaints or matters before the courts or Local Government and Social Care Ombudsman; and

- (h) Contractual matters, other than performance monitoring and review, except with the agreement of the Cabinet.

## **Article 10 – Joint Arrangements**

### **10.1 Arrangements to promote well being**

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- c) exercise on behalf of that person or body any functions of that person or body.

### **10.2 Joint Arrangements**

The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions, in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

The Cabinet may only appoint Cabinet Members to a joint committee.

Details of any formal joint committee arrangements will be maintained by the Head of Governance and contained in paragraph 23.3 at Chapter 4 of this Constitution.

### **10.3 Access to information**

The Access to Information Procedure Rules in Chapter 2 of this Constitution apply.

If all the members of a joint committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

If the joint committee contains Members who are not on the Cabinet of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **10.4 Delegation to and from other Local Authorities**

The Council may delegate non-Cabinet functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.

The Cabinet may delegate Cabinet functions to another Local Authority or the Cabinet of another Local Authority in certain circumstances.

The decision whether or not to accept a delegation from another Local Authority shall



be reserved to the Council.

Where the Council has entered in Joint Committee arrangements these are listed at paragraph 23.3.

## **10.5 Contracting out**

The Council, for functions which are not those of the Cabinet, and the Cabinet for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **Article 11 – Finance, Contracts and Legal Matters**

### **11.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules contained in Chapter 2 of this Constitution.

### **11.2 Contracts**

Every contract made by the Council shall:

- (a) be in writing;
- (b) be signed by an authorised signatory or a Corporate Director in consultation with the Head of Governance or an authorised signatory where a Contract needs to be executed as a Deed; and
- (c) comply with the Procurement Procedure Rules.

### **11.3 Legal Proceedings**

The Head of Governance is authorised to institute, defend, or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Governance considers that such action is necessary to protect the Council's interests. They may designate nominated officers to carry out this function on their behalf.

### **11.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it shall be signed by the Head of Governance or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person. The Head of Governance or such person authorised by them shall be the authorised officer to authenticate any document as being an official Council document or an official copy.

Any contract with a value exceeding £150,000 entered into on behalf of the Council shall be made in writing. Such Contracts must be made under Common Seal of the Council attested by at least 1 authorised officer.

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

The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer.

A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The Common Seal shall be affixed to those documents which in the opinion of the

Monitoring Officer should be sealed.

The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by them.

Deeds to be executed under hand shall be attested by the Monitoring Officer or some other person authorised by them.



## **Chapter 2**

### **The Procedure Rules**



## **12. Council Procedure Rules**

### **12.1 Annual Meeting of the Council**

#### **Timing of the Annual Meeting**

The Annual Meeting of the Council shall be held:

- (a) in a year in which there are ordinary elections of Members to the Council, on a date not more than twenty-one days after the day of the retirement of Council Members; or
- (b) in any other year, the Annual Meeting may take place in March, April or May.

#### **Order of Business**

At the Annual Meeting of the Council, business will be reserved for:

- (a) the election of the Chairman and Vice Chairman;
- (b) In the first Annual Meeting following an ordinary election of Councillors,
  - (i) the appointment the Leader for a 4-year term;
  - (ii) receive notification from the Leader on the appointment of the Deputy Leader;
  - (iii) receive notification of the memberships of political groups; and
  - (iv) receive notification of the names of Group Leaders and their Deputies.
- (c) Announcements from the Chairman, the Leader and/or the Chief Executive;
- (d) Receive notification from the Leader of:
  - (i) the appointment of Cabinet Members and their Portfolios;
  - (ii) the appointment of Cabinet Committees, their membership and term of reference;
  - (iii) Delegation of Executive Functions to Cabinet Members and Officers;
- (e) The establishment of Council Committees and sub-committees, their membership and term of reference in accordance with the political balance rules and appointments to outside bodies subject to the provisions below;
- (f) The Annual Review of the Constitution, including the allocation of Motions to Groups for the civic year.
- (g) Fix the allowances for Members for the municipal year, having

regard to any report prepared by the Independent Remuneration Panel;

- (h) The setting of dates for the Ordinary Meetings of the Council for the remainder of the municipal year.

### **Restrictions and requirements on Business**

No other business shall be transacted at the Annual Meeting unless, it is the opinion of the Chairman or the Chief Executive that there is business which relates to the administrative functions of the Council, or the Council is required to urgently consider before the next available Ordinary Meeting.

The Monitoring Officer shall prepare and provide lists of appointments to be made to Council Committees and Sub-Committees to each Group Leader, taking into account the rules of proportionality where these apply. Each Group Leader will submit a list of Councillors of their political group together with nominations for all appointments (including the Chairman and Vice Chairman of Committees) to the Monitoring Officer at least 5 working days before the publication of the agenda for the Annual Meeting.

## **12.2 Ordinary Meeting of the Council**

### **Timing of the Ordinary Meeting**

In addition to the Annual Meeting of the Council, the Budget meeting held in February each year, and any meeting convened under paragraph 12.4, four meetings for the transaction of general business shall normally be held in July, September, December and March each year. The Councils Ordinary Meetings shall be held each year on such dates, times and places as decided by Council at its Annual Meeting

### **Order of Business**

Ordinary Meetings will conduct the following business:

- (a) Elect a person to preside over the meeting if the Chairman and the Vice Chairman are not present;
- (b) Receive any apologies for absence;
- (c) Receive any declarations of interest from Councillors;
- (d) Approve the minutes of the last meeting;
- (e) To deal with questions from members of the public in accordance with paragraph 12.11;
- (f) Receive any announcements from the Chairman and/or the Leader and/or the Chief Executive;
- (g) Deal with any business remaining from the last meeting;
- (h) Deal with any urgent items of business as agreed by the Chairman;
- (i) To receive a report on any petition required to be debated in accordance

- with the Council's Petition Policy;
- (j) To consider any Motions on notice;
  - (k) To receive oral questions to the Executive as permitted by the Council Procedure Rules;
  - (l) Deal with the Medium-Term Financial Strategy, the setting of the Council Budget and Council Tax resolution;
  - (m) To consider a report on any matters reserved to the Council;
  - (n) To receive a report on Council Issues from the Leader as permitted by the Council Procedure Rules;
  - (o) To receive and consider any other reports, if any, including reports from the Committee Chairman as permitted by paragraph 12.15, as specified in the Agenda;
  - (p) Consider any recommendations from the Cabinet, Council or their Committees that require a Council resolution; and
  - (q) To deal with any business in private in accordance with the Access to Information Procedure Rules.

The order of business at any meeting of the Council, save for business items falling under (a), (b) and (c) above, may be varied and re-ordered by the Chairman of the Council.

## **12.3 Extraordinary Meetings of Council**

### **Timing of the Extraordinary Meeting**

An Extraordinary Meeting of the Council may be held in addition to the Ordinary Meetings of the Council, where a request to call an Extraordinary Meeting has been received by the Chief Executive from;

- (i) The Chairman;
- (ii) The Council by resolution;
- (iii) The Monitoring Officer in circumstances where a report under section 5 of the Local Government Act 1989 is to be presented; or
- (iv) Any 5 Councillors, only if having signed and presented a requisition to the Chairman, the Chairman has refused to call an Extraordinary Meeting or has failed to call an Extraordinary Meeting within 7 clear working days of receipt of the requisition.

### **Order of Business**

Save for items set out in paragraph 12.2 (a) – (f), the only the business for which the meeting has been called will be conducted at an Extraordinary Meeting of the Council.



## **12.4 Time and Place of Meetings**

All meetings of the Council shall normally be held at Causeway House, Braintree and the time of the meetings shall be notified in the agenda for each meeting.

Meetings of the Council shall be called by the Chief Executive at such times and places as shall be required to conduct the business of the Council.

No alterations to the dates or times of Ordinary Meetings of the Council shall take place, unless the Chairman, after consultation with the Chief Executive, determines that it is necessary to either cancel a meeting or establish an alternative date or time. In such instances all Councillors will be notified by email, and notice of the changes will be on the Council's website.

The Council will give at least 5 clear working days' notice of the meeting to all Councillors and to the public by posting details of the meeting at the Council's main office and on its website.

## **12.5 Duration of Meetings**

No meeting shall last for more than 3 hours.

If during the meeting, it appears to the Chairman that the meeting will exceed its permitted time of 3 hours, they will invite the meeting to suspend this Procedure Rule in accordance with paragraph 12.25.

Where this Procedure Rule is suspended, the Council will deal with the remaining business in the order set out in the agenda or continue to sit for a specific period of time. In such circumstances, priority will be given to any item of business that the Council is legally obliged to consider at that meeting.

Any business not concluded during the extended period will be considered at the next meeting of Council, save for questions to the Leader and Cabinet. Any Member wishing to ask questions under this item will be invited to submit their written question in accordance with the Written Member Questions procedure under 15.27.

## **12.6 Chairing the Meeting**

Meetings of the Council will be chaired by the Chairman of the Council, or in their absence the Vice Chairman of the Council. In the absence of both, the Council at the start of the meeting, will elect a Member to chair the meeting on that occasion.

The Councillor presiding over the meeting may exercise any power or duty of the Chairman and will control the order and conduct of business.

Where these Procedure Rules apply to Committees and Sub-committees, references to the Chairman of the Council will include the Chairman of the Committee and Sub-Committee.

The ruling of the Chairman of the Council as to the construction or application of any of the Procedure Rules shall be final and shall not be challenged.

## **12.7 Quorum**

The quorum of a meeting will be one third of the Councillors called for the meeting, or 3 Members, whichever is the greater present in the meeting.

If the Chairman considers the meeting to be inquorate the meeting shall stand deferred for 15 minutes. If there is still no quorum after 15 minutes, then the meeting will be adjourned, and the consideration of business will be held over to the next meeting.

## **12.8 Attendance**

All Members present during the whole or part of a meeting are required to ensure that their attendance has been recorded by the Governance officer present before the conclusion of every meeting to assist with the record of attendance.

## **12.9 Documents**

### **Reports**

The agenda for each meeting will include written reports containing such information as is necessary to enable the Council to properly discharge its functions and responsibilities. All reports will be made available in accordance with the Access to Information Procedure Rules.

### **Background Papers**

Each report will identify a list of background papers relating to the subject matter as defined by paragraph 15.8 of the Access to Information Procedure Rules.

### **Confidential Appendix**

Where a report contains information that is considered Confidential Information or Exempt Information, in accordance with the paragraph 15.11 of the Access to Information Procedure Rules, that information shall be placed in a Confidential Appendix, which will accompany the report for consideration. The Confidential Appendix will be exempt from publication in accordance with paragraph 15.12 of the Access to Information Procedure Rules.

## **12.10 Minutes**

The minutes of each meeting shall be considered at the next Ordinary Meeting of the Council.

The Chairman shall put the question that the minutes of the meeting be approved as a correct record.

No discussion shall take place upon the minutes except upon their accuracy and any question of their accuracy will be considered and voted upon.

## **12.11 Public Question Time**

At every meeting of the Council there shall be a period of up to 30 minutes to enable members of the public to ask questions.

At full Council and any of its Scrutiny committee's members of the public may ask questions on any matter in relation to which the Council has powers or duties or which affects the District.

For all other meetings members of the public may ask questions on any matter listed on the agenda of that particular meeting.

At the Chairman's discretion, additional time may be allocated to public question time.

A question may only be asked if the member of the public has registered to speak by giving notice to the Head of Governance no later than 12 noon on the second working day before the day of the meeting. Each question must give the name and address of the questioner.

At any one meeting no person, organisation or group may submit more than one question or statement.

The time limit for any question or statement is 3 minutes and any reply will be limited to 5 minutes. Additional time may be allowed if there is unallocated time under this item, where the question to be raised relates to a complex matter or issue, and only with the agreement of the Chairman.

Questions or statements shall normally be dealt with in the order in which notice was received. However, the Chairman may revise the order of questions if they consider it appropriate and may group together similar questions.

A question may be rejected by the Chairman of the Council if it addresses matters that would be inappropriate to consider at the meeting. For this purpose, 'inappropriate' includes any question or statement falling within any of the following categories:

- (a) is not about a matter for which the Council has powers or duties;
- (b) is defamatory, frivolous, vexatious or offensive;

- (c) is substantially the same as any question put to a meeting in the previous 6 months;
- (d) will require the disclosure of Confidential or Exempt Information as defined in the Access to Information Procedure Rules; or
- (e) is already subject to separate appeal, adjudication, litigation, mediation or dispute resolution.

If a question or statement is rejected, then a written explanation as to why it has been rejected will be provided.

Questions or statements which have not been rejected will be circulated to all Members before the meeting.

The Chairman will invite the person who gave notice of the question or statement, to ask the question or statement. The person asking the question or statement must be present at the meeting. However, the Chairman may exercise their discretion to allow a question or statement to be read out by an Officer in the absence of the person making it.

There is no further opportunity for a member of the public to make a statement or to ask a supplementary question.

The Leader, relevant Cabinet Member or Chairman of the relevant Committee will respond to the question or statement orally or where a response cannot be provided at the meeting, a written response will be provided within 10 working days of the meeting.

No other Member shall be permitted to speak.

Any question or statement of which proper notice has been given but which is not dealt with in the allotted time of 30 minutes will not be held over to the next meeting. After the meeting a written response will be given in the form in which the question was received.

This rule does not allow Members of the Council to register as a public speaker as there are alternative forums through which the Member could raise a question to the Council. However, where the Member is not participating in the meeting, they may be able to register in their private capacity or as a Ward Member were appropriate. In such circumstances the Member should seek advice from the Monitoring Officer.

## **12.12 Statements by the Leader**

At every Ordinary or Extraordinary Council meeting there will be a statement by the Leader. The purpose of the statement is to allow the Leader to update the Council on current issues of importance that cannot be covered elsewhere as part of the usual business.

At the meeting, the Leader will be entitled to address the Council for a maximum of 10 minutes.

### **12.13 Questions to the Leader and the Cabinet**

The Chairman will invite Members to ask questions of the Leader and Cabinet Members on matters which relate to the functions of the Leader or Cabinet Members, the powers and duties of the Council or matters pertaining to the District, which are relevant to their respective portfolios, which has taken place since the last meeting of Council.

Councillors will be able to ask questions as follows:

- (a) The Leader of the Opposition will ask one question, this shall be the first question taken as part of this item,
- (b) Any other Councillor may ask one question each,
- (c) A period of up to 30 minutes shall be allowed for this item on the agenda;
- (d) The question must:
  - 1. Be succinct, with no leading statement made beforehand, and
  - 2. Cannot be asked in parts;
- (e) There is no opportunity for a Councillor to make further statement or to ask any supplementary questions.

### **Replies to Questions**

An answer to a question raised without notice may take the form of:

- (a) A concise and direct oral answer;
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) Where the reply cannot conveniently be given orally, a written answer will be issued to the Member asking the question and circulated to all Members within 10 working days of the meeting.

### **12.14 Statements by a Councillor**

A Councillor may make a statement at an Ordinary Meeting of Council upon giving details of the subject to the Chief Executive or the Monitoring Officer by no later than 9 clear working days before the meeting.

No Councillor shall make more than 1 statement at any one Ordinary Meeting of the Council.

The Chairman has the discretion to decline to allow any statement to be dealt with under this paragraph on the grounds that it addresses matters that would be inappropriate to consider at the meeting. Such discretion can be exercised during the meeting.

For the purposes of this rule, the definition of "inappropriate" shall be the same as set out in paragraph 12.11.

In determining whether or not a statement is inappropriate, the Chairman will take advice from the Chief Executive and/or the Monitoring Officer.

The length of any statement shall be in accordance with the provisions set out in paragraph 12.19.

A response to each statement may be made by the Leader, the appropriate Cabinet Member or Chairman of the relevant Committee.

### **12.15 Statements by Chairmen**

The Chairman of a Committee or Sub-committee may make a statement at an Ordinary Meeting of Council on a key issue arising from the work of their Committee, which they consider should be brought to the attention of the Council.

Details of the issue to be brought to the attention of the Council must be given to the Chief Executive or the Monitoring Officer no later than 9 clear working day before the meeting.

### **12.16 Petitions**

These Council Procedure Rules apply when a petition is required to be reported to the Council in accordance with the Councils Petition Policy.

### **12.17 Motions**

#### **Scope**

No motion shall be put unless it relates to a matter over which the Council has power or which affects the Council or the District.

Any Motion which relates to an Executive Function shall be deferred by the Monitoring Officer to the next available Cabinet meeting for consideration and determination.

#### **Submission of Motions on Notice**

Notice of the Motion and the proposed wording shall be submitted to the Chief Executive or Monitoring Officer and shall contain the names of at least 5 Councillors supporting the Motion which can include the Member proposing and seconding the Motion.

Such notices may be submitted in person, by 5:30pm by post or electronic mail 9 clear working days before the meeting of Council.

Motions that have been received in accordance with these Rules will be included on the agenda in the order in which they are received, unless the Councillors proposing the Motion gives written notice that they intend to withdraw it or defer it to a subsequent meeting of Council.

In the event that there are 2 motions which are similar in topic, the Chief Executive and Monitoring Officer will work with Group Leaders to agree an alternative approach. The Default is that each will be taken separately in the order they are received.

A maximum of four motions shall be accepted for debate at an Ordinary Meeting of the Council.

The Motions available at each meeting will be allocated in accordance with the following rules:

- a. The Group which has the majority of seats on the Council shall be allocated 2 motions at each Ordinary meeting of Council, where motions are allowed;
- b. The remaining motions shall be allocated to the other Groups in proportion to the number of seats held; and
- c. If any Group does not use their allocation of motions, there shall be no reallocation to another group.

The proportion of Motions shall be set out at the Council Annual General Meeting and recorded in the Constitution.

For the 2023/24 civic year, the motion allocation shall be as follows:

- a. Conservative Group – 2 Motions per Meeting
- b. Independent and Green Group – 4 Motions per year
- c. Labour – 3 Motions per year
- d. Halstead Residents Association – 1 Motion per year.

No Motions shall be accepted at either the Councils Annual General Meeting or at the Budget meeting.

### **Motions without Notice**

The following Motions may be moved without notice:

- (a) The appointment of a Chairman in the absence of the Chairman and Vice Chairman;
- (b) In relation to the accuracy of the minutes of the meeting;
- (c) The referral of an issue to the Cabinet or a Committee of the Council if it is within their terms of reference;
- (d) The adoption of a recommendation of the Cabinet or a Committee of the Council or an Officer, presented as part of the agenda including any consequent motions or resolutions;
- (e) To withdraw a Motion or a question (by the proposer only, and no seconder is required);
- (f) To amend a Motion or recommendation in a report (by the proposer only)

- (g) To adjourn the debate or the meeting;
- (h) To exclude the public and press from the meeting under the relevant statutory provisions and in accordance with the Access to Information Procedure Rules;
- (i) To change the order of business on the agenda, proceed to the next item of business or put to a vote the matter under debate;
- (j) To suspend a particular Council Procedure Rule in accordance with the provisions set out in paragraph 12.25; or
- (k) That a Councillor not be further heard or be required to leave the meeting due to their conduct during the meeting.

### **Rescinding a Preceding Resolution**

No motion to rescind any resolution passed within the preceding 6 months, and no motion or amendment to the same effect as one which has been rejected within the preceding 6 months, shall be considered, unless:

- (a) In the opinion of the Chairman significant new information has come to light since the original debate; or
- (b) The Notice thereof given in accordance with paragraph 12.17 (Submission of Motions on Notice) with the names of at least 16 Members of the Council is received by the Chief Executive or the Monitoring Officer, 9 clear working days before the meeting; or
- (c) It is moved in pursuance of a recommendation in a report to the meeting.

### **Dealing with Motions on Notice at the Meeting**

If the Proposer or the Seconder (or a Member nominated as such) is not present at the meeting, then the Motion will be declared by the Chairman as having failed and the Chairman will immediately move onto the next item of business on the agenda.

## **12.18 Rules of Debate**

### **Debate Etiquette**

A Member when speaking will stand and address the Chairman unless alternative provisions have been agreed with the Chairman.

While a Member is speaking, all other Members shall remain seated, unless raising a Point of Order or Personal Explanation.

A Member shall indicate they wish to speak by raising their hand but shall only speak when called by name by the Chairman.

Members will, when speaking, refrain from making comments of a personal



nature about another Councillor.

Members will refrain from disrupting the meeting.

Whenever the Chairman speaks during a debate, any Members then standing shall be seated and the Council shall be silent.

### **Discussion of the Motion at the Meeting**

Any Councillor that speaks on a Motion shall address the Chairman and shall ensure that their speech is strictly related to the Motion under discussion and necessary for the progression of the debate or to a Point of Order as set out in paragraph 12.21.

The Chairman has the right to advise Councillors that they are no longer addressing the Motion and to curtail excessive speeches.

### **Number of Speeches**

No Member may speak more than once in a debate on a Motion unless:

- (a) The Proposer of the Motion shall have the right of reply at the close of the debate and immediately before the Motion is put to the vote. Such reply shall be confined to answering the previous speakers and shall not introduce any new matters;
- (b) The Leader (in respect of motions concerning Cabinet functions) or the relevant Committee Chairman (in respect of motions concerning non-Cabinet functions) shall be entitled to a right of reply;
- (c) On a Point of Order; or
- (d) Point of Personal Explanation; or
- (e) On an Amendment to the Motion.

## **12.19 Speeches by Proposer and Seconder**

### **The Proposer**

At the meeting the Chairman will invite the Proposer of the Motion to present the Motion to the meeting and formally move it.

The Proposer of any Motion which is the subject of a debate shall make a speech as soon as the Motion has been seconded.

In the case of Motions arising from a recommendation or report from the Cabinet, the Leader or relevant Cabinet Member will introduce the recommendation and propose the Motion.

### **The Seconder**

Every motion shall be formally seconded before the Chairman opens up the debate. The Secunder of a Motion may reserve their speech to a later period in the debate.

### **Length of Speech or Statement**

Members will usually be expected to speak for no longer than 5 minutes unless a point is particularly complex or detailed. Any extension in time permitted for a speech will be at the discretion of the Chairman.

## **12.20 Amendments to Motions**

An amendment may be moved if it is relevant to the Motion and propose changes to the Motion by either:

- (a) Leaving out words;
- (b) Leaving out words and inserting or adding others;
- (c) Inserting or adding words; or
- (d) Change the Motion so that it refers the matter to the Cabinet, Committee or Cabinet Member for consideration.

The omission, insertion or addition of words must not be capable of negating or nullifying the effect of the Motion under consideration or have the effect of introducing a new subject matter into the Motion.

No amendment to any Motion shall be moved unless written notice has been given to the Chief Executive or Monitoring Officer by 12 noon on the third working day before the meeting.

All valid amendments to a Motion will be circulated to Members before the meeting.

Recommendations contained within reports due to be considered by Council shall be preserved. Accordingly, no Motion shall be brought that seeks to alter a recommendation contained within a report before the meeting, unless in accordance with paragraph 12.17(f). The only exception shall be to the Budget report considered by the Council at its Budget meeting, for which Members may be able to submit amendments to the Motions in accordance with the provisions set out within paragraph 12.17.

The Chairman may, in consultation with the Chief Executive and Monitoring Officer agree to an urgent amendment if there are exceptional reasons why notice could not be given in accordance with this paragraph.

The proposed amendment will be circulated to Chief Officers for the purposes of assessing the potential budgetary or legal impact and consequences for the Council.

If the Proposer and Seconder of the Original Motion consents to the amendment it can be adopted without the need for further debate or vote. In such instance the amended Motion then becomes the Substantive Motion upon which any further amendment can be moved.

Amendments will be dealt with in the order they are received by the Chief Executive or Monitoring Officer.

Only one amendment can be moved, seconded and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. Except in instances where there are amendments to the Budget, all amendments may be moved, seconded and debated as one item before each amendment is then put to the vote separately in the order in which they were received by the Chief Executive or Monitoring Officer. In such instance, this will be agreed in advance with Group Leaders.

If an amendment is carried when put to the vote, then the Motion as amended shall take the place of the original motion and shall become the substantive motion.

If an amendment is lost when put to the vote, then the next proposed amendment will be considered, if there is no further amendment then the original motion will be put and opened for debate.

## **12.21 Points of Order and Personal Explanation**

A Councillor may raise a Point of Order or Personal Explanation and shall be invited by the Chairman to speak on the issue forthwith.

The Point of Order may only relate to an alleged breach of the Council Procedure Rules or a statutory provision and the Member shall specify the nature of the breach.

The Chairman shall consider the Point of Order and shall give their ruling on the matter. The ruling of the Chairman will be final.

A Personal Explanation shall be confined to some material part of their former speech which may have been misunderstood or misrepresented in the present debate.

No Point of Order or Personal Explanation shall be taken after the vote on the matter has been taken.

## **12.22 Voting**

### **General Provisions**

Unless required otherwise by law, all matters shall be decided by a simple majority of those present at the meeting at the time the question is put.

Voting shall be by show of hands, or such other method as determined by the Chairman of the Council.

In the event of an equality of votes on either side, the Chairman of the Council will have a second or casting vote.

Where the Council is making an appointment, and there are two or more persons nominated the decision will be taken by majority ballot. Where there is not an overall majority in favour of one person a further ballot will be undertaken with the person with the least votes being struck off the list and so on until a majority of votes is cast in favour of one person.

### **Recording Votes**

A Member shall have the right to have their votes for, against or abstention from the vote recorded in the minutes provided that this is requested immediately before the vote is taken.

### **Recorded Votes**

If, immediately before the vote is taken, 3 Councillors request a recorded vote, the Chief Executive or the Monitoring Officer in their absence shall call each Member present to state whether they vote for, against or abstain. The names for, against and abstain for the motion or amendment shall be taken down in writing and entered in the Minutes.

### **Budget and Council Tax Votes**

The mechanism for recorded votes as set out above shall apply automatically in the case of any decision (including any amendments to the substantive motion) relating to the Budget or Council Tax at the annual budget decision meeting.

This provision cannot be suspended under paragraph 12.25.

## **12.23 Substitute Members**

Where a Member of the Licensing or Planning Committee are unable to attend a meeting of that committee, another Member ('the Substitute Member') may be appointed as a member of that Committee.

A Substitute Member is appointed when a written substitution notice is received by the Governance Team no later than 24 hours before the start of the relevant meeting.

A substitution notice may be sent by:

- (i) the Member appointing their substitute; or
- (ii) The Leader of the Member's Political Group.

The effect of a substitution notice is that the Member named in the notice

shall cease to be a member of that committee for the duration of that meeting and the Substitute Member shall be a full member of the Committee for the same period.

A substitution notice may be revoked by the Member or the person who gave it at any time preceding the deadline for the giving of a substitution notice.

Each political group shall annually appoint up to 4 Substitute Members to the Planning and Licensing Committees at the Councils Annual Meeting. Each Substitute Member shall undertake all required knowledge and training before they are permitted to participate as a Member of the relevant Committee.

All named Substitute Members shall be permitted to attend the relevant Committees as an observer on those occasions where they are not acting as a notified Substitute Member.

All nominated Substitute members will be identified on all agendas for the respective Committee meetings.

For all other Committees the member of that Committee shall be entitled to appoint a substitute of their choosing to attend, in circumstances where their attendance is not possible. In such circumstances the provisions set out in this paragraph apply.

#### **12.24 General Disturbance**

In the event of a general disturbance which in the opinion of the Chairman of the Council renders the due and orderly conduct of the business impossible, the Chairman of the Council may without question adjourn the meeting for such period as they consider necessary and expedient.

#### **Disorderly Conduct of a Member**

If at a meeting any Member, in the opinion of the Chairman of the Council, misconducts themselves by persistently disregarding the ruling of the Chairman of the Council, or by behaving irregularly, improperly, offensively or by wilfully obstructing the business of the Council, any Member may move:

- (a) That the Member shall not be heard further; and the Motion if seconded shall be put and determined without discussion or debate.
- (b) If the Member named continues their misconduct after a Motion under paragraph (a) above has been carried, a Member shall:
  - (i) Either move that the Member leaves the meeting; in such case the motion shall be put and determined without seconding, discussion or debate; or
  - (ii) The Chairman may adjourn the meeting for such period as they consider expedient; and
  - (iii) The Chairman may also give such directions as they consider appropriate for the removal of the member and the restoration of

order to the meeting.

### **Disorderly Conduct of a Member of the Public**

If any member of the public interrupts the meeting the Chairman shall, in the first instance, issue them with a verbal warning. If the interruption continues, the Chairman shall request that they leave the meeting and in the event that they do not leave, the Chairman shall have the power to adjourn the meeting and/or order their removal from the meeting room.

### **12.25 Suspension of the Council Procedure Rules**

Any of these Procedure Rules may be suspended by the way of motion carried by a simple majority at any meeting of the Council, save and except for paragraph 12.22 (Budget and Council Tax Votes).

### **12.26 Procedure Rules applying to Committees**

The following Council Procedure Rules shall apply to all Committees, and Working Groups either appointed by Council or by Cabinet:

- (a) Quorum
- (b) Rules of Debate, except those relating to standing; length of speeches and ability to speak only once.
- (c) Voting
- (d) Record of Attendance
- (e) Length of Meeting
- (f) Suspension of the Procedure Rules;
- (g) General Disturbance;
- (h) Points of Order or Personal Explanation;
- (i) Documents;
- (j) Minutes; and
- (k) Public Question Time.

## **13. Cabinet Procedure Rules**

### **13.1 Cabinet Meetings**

The Cabinet will meet at least 6 times a year at times to be agreed by the Leader.

Additional Cabinet meetings may be called from time to time by the Leader as and when required.

The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### **13.2 Quorum**

The quorum for a meeting of the Cabinet (or a committee of it) shall be 3 Members, which shall include the Leader, or in their absence the Deputy Leader.

### **13.3 Attendance at Meetings**

All Cabinet Members are entitled to attend the Cabinet meetings and hold full speaking and voting rights.

The Leader may invite other Members to attend Cabinet meetings as and when required and may invite them to speak either on individual items or on any items on the Agenda. In such instances the invited Members will not be entitled to vote on any item on the Agenda.

Members of the public are entitled to attend meetings in accordance with the Access to Information Procedure Rules.

### **13.4 Order of Business**

In addition to those items set out in paragraph 12.26, the Cabinet will conduct the following business:

- (a) matters referred to the Cabinet (whether by the Corporate Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution;
- (b) consideration of reports from the Councils Overview and Scrutiny Committees; and
- (c) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions in accordance with the Access to Information Procedure Rules set out in this Constitution.

### **13.5 Taking Decisions**

Executive decisions will be taken at a meeting convened in accordance with the Access to Information Procedure Rules.

Where an Executive function has been delegated to a committee of the Cabinet these rules will apply to that Committee.

All decisions will be taken in accordance with these Procedure Rules, and where applicable the Council Procedure Rules and in accordance with the Access to Information Procedure Rules and the Scheme of Delegations contained in Chapter 4.

### **13.6 Chairing the Meeting**

Cabinet meetings will be chaired by the Leader or in their absence the Deputy Leader.

### **13.7 Conflicts of Interest**

Where the Leader has a conflict of interest this should be dealt with in accordance with the Member Code of Conduct as set out in this Constitution.

If every member of the Cabinet has a conflict of interest this should be dealt with in accordance with the Member Code of Conduct as set out in this Constitution.

In the event that a conflict of interest arising in the exercise of an Executive Function which has been delegated to a Cabinet Committee, a Cabinet Member or an Officer, then the matter will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Member Code of Conduct as set out in in this Constitution.

### **13.8 Who can put items on the Cabinet Agenda**

The Leader will determine the items on the Agenda for Cabinet meetings, in consultation with the Chief Executive. The Leader may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Cabinet Committee or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any Cabinet Member may require the Proper Officer to list an item on the agenda of the next available Cabinet meeting for consideration. If they receive such a request the Proper Officer will comply.

Any Member may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be



considered at the next available Cabinet meeting. The Agenda of the meeting will give the name of the Member who asked for the item to be considered. The Member will then be invited to attend and speak on the item at the meeting but will not be entitled to vote on the item.

The Monitoring Officer, S 151 Officer or the Head of Paid Service may include an item for consideration on the agenda of a Cabinet Meeting and may request such a meeting in pursuance of their statutory roles.

### **13.9 Consultation**

All reports to the Cabinet which relate to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Corporate Scrutiny Committee and will provide details of the outcome of that consultation.

Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and in accordance with any statutory requirements in force at the time the consultation is undertaken.

### **13.10 Member Question Time**

A Member who is not a Member of Cabinet, may ask the Leader or a Cabinet Member any question on any matter in respect of which the Cabinet has powers or duties, or which affects the District provided notice has been given in writing to the Governance Team no later than 12 noon, 2 working days before the meeting.

No more than two questions may be put by the Member at any meeting.

The time limit for any question is 3 minutes and any reply will be limited to 5 minutes.

Questions shall normally be dealt with in the order in which notice was received. However, the Leader may revise the order of questions if they consider it appropriate, and may group together similar questions.

There is no opportunity for a Member to make a further statement or to ask a supplementary question.

The Leader or relevant Cabinet Member will respond to the question orally or where a response cannot be provided at the meeting, a written response will be provided within 10 working days of the meeting.

The right to ask the question shall be at the Chairman's discretion, having regard to the reasonable and efficient management of the meeting.

### **13.11 Matters of Urgency**

Where the Monitoring Officer in consultation with the Chief Executive considers that a matter of urgency has arisen in connection with the work of the Cabinet and requires a decision before the next regular meeting of the Cabinet, then the following shall have the authority to take the decision:

- (a) the Leader; or
- (b) in their absence the Deputy Leader or
- (c) in their absence the Cabinet Member who has responsibility for the matter concerned.

Where an urgent decision has been taken, the decision taker shall take a report setting out the nature of the decision taken, the reasons for the urgency and details of the actions taken, to the next Council meeting.

This provision shall only apply to Executive functions, or those functions which have been delegated by Council to the Cabinet or a Cabinet Committee.

A decision made by the Cabinet pursuant to this paragraph shall not be subject to the Call-In Procedure and may be implemented with immediate effect.

This provision will apply to a Key Decision. The Leader may only take an Urgent Key Decision if the provisions as set out in paragraph 15.17 of the Access to Information Procedure Rules have been followed.

## **14. The Budget and Policy Framework Procedure Rules**

### **14.1 The Framework for Cabinet Decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 5 of this Constitution. Once the Budget and Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

### **14.2 Process for developing the Budget and Policy Framework**

The Budget and Policy Framework shall be developed in accordance with the process set out in these Procedure Rules.

#### **Publication**

The Cabinet will publish its initial proposals for the adoption of any plan, strategy and budget that forms part of the Budget and Policy Framework at least two months before its submission to Council for adoption.

#### **Consultation**

Prior to publication, the Cabinet will first consult and seek the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration.

Details of the Cabinet's consultation process shall be included in the Forward Plan.

Any representations made to the Cabinet shall be taken into account in formulating the initial proposals and shall be reflected in any report dealing with them.

If the matter is one where a Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.

#### **Corporate Scrutiny Committee**

The Cabinet's initial proposals shall be referred to the Corporate Scrutiny Committee as part of the consultation process. The Corporate Scrutiny Committee shall canvass the views of local stakeholders and shall have particular regard not to duplicate any consultation carried out by the Cabinet.

The Corporate Scrutiny Committee consultation shall take place by way of a meeting to which all Members of Council shall be invited to attend and ask questions of the Cabinet on the proposals being put forward.

#### **Cabinet**

Following which a report to Cabinet on the outcome of its deliberations will be prepared and submitted. The Corporate Scrutiny Committee shall have at least four weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Corporate Scrutiny Committee of

the time for response when the proposals are referred to it.

Having considered the report of the Corporate Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration.

### **Council**

The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

In considering the matter, the Council shall have before it the Cabinet's proposals and any report from the Corporate Scrutiny Committee.

The Council's decision will be publicised in accordance with this Constitution and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, (where amendments have made), unless the Leader of the Council objects to it during that period.

### **Leader Objection**

If the Leader objects to the decision of the Council, they shall give written notice to the Proper Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

The Council meeting must take place within 10 working days of the receipt of the Leader's full and measured written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with the Constitution and shall be implemented immediately.

## **14.3 Decisions outside the Budget and Policy Framework**

Subject to the provisions of the Financial Procedure Rules, the Cabinet, Cabinet Committees, Cabinet Members and any officer, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.

If any of these bodies or persons wishes to make a decision which is contrary to the Budget and Policy Framework approved by the Council, then they shall take advice from the Monitoring Officer and the s.151 Officer.

If the advice of either of those officers is that the decision would not be in line with the existing Budget and Policy Framework; then that decision may only be taken by the Council, subject to paragraph 14.4 below.

#### **14.4 Urgent decisions outside the Budget or Policy Framework**

The Cabinet, a Cabinet Committee, Cabinet Member or Officer, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Budget and Policy Framework if the decision is a matter of urgency.

Such an urgent decision may only be taken if;

- (a) it is not practical to convene a quorate meeting of the Council; and
- (b) the Chairman of the Corporate Scrutiny Committee agrees that the decision is a matter of urgency, in accordance with the Access to Information Procedure Rules.

The decision notice must specify the reasons why it is not practical to convene a quorate meeting of the Council and the Chairman of the Corporate Scrutiny Committees consent to the decision being taken as a matter for urgency.

Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **14.5 In-year changes to the Budget and Policy Framework**

No changes to any policy and strategy which make up the Budget and Policy Framework may be made by the Cabinet, a Cabinet Committee, Cabinet Member or Officer, area committees or joint arrangements discharging executive functions, except where those changes are:

- (a) necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (b) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

#### **14.6 Call-in of decisions which are outside the Budget and Policy Framework**

Where the Corporate Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Budget and Policy Framework, then it shall seek advice from the Monitoring Officer and/or the s.151 Officer.

In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's and/or s.151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report.

The Cabinet must prepare a report:

- (a) to Council in the event that the Monitoring Officer and/or the s.151 Officer concludes that the decision was a departure, or

- (b) to the Corporate Scrutiny Committee if the Monitoring Officer and/or the s.151 Officer concludes that the decision was not a departure.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the s.151 Officer is that the decision is or would be contrary to the Budget and Policy Framework, the Corporate Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

The Council shall meet within 10 working days of the request by the Corporate Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the s.151 Officer.

The Council may either:

- (a) endorse a decision or proposal of the decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (b) amend the Council's Financial Procedure Rules or the policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (c) where the Council accepts that the decision or proposal is contrary to the Budget and Policy Framework and does not amend the existing Budget and Policy Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or s.151 Officer.

## **15. Access to Information Procedure Rules**

### **15.1 Introduction**

These rules apply to meetings of the Council, Council Committees, Scrutiny Committees and Cabinet.

As the Council is functioning under executive arrangements these rules have been prepared in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the provisions set out in sections 100A-H and Schedule 12A of the Local Government Act 1972 (as amended).

These rules do not affect any specific rights to information contained elsewhere in the Constitution or by law.

### **15.2 Rights to Attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

Members of the public shall not be admitted into any meeting in excess of the number which the public accommodation can safely contain.

### **15.3 Notices of Meetings**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the public notice board at Causeway House, and on the Council's website.

If a meeting is convened at shorter notice, notice will be issued at the time the meeting is convened, and in accordance with the general exception and special urgency rules set out in paragraph 15.16 and 15.17.

### **15.4 Notice of Private Meetings of the Cabinet**

When the public are to be excluded from a meeting (or part of a meeting) of the Cabinet or a Cabinet Committee, a notice of intention to hold a meeting in private will be published on the Council's website (as part of the Decision Planner) at least 28 days before the date of the meeting.

The notice will state the reasons why the meeting (or part of the meeting) is to be held in private and how to make objections to this.

If objections are received, then these will be considered by the Chief Executive in consultation with the Leader. In the absence of the Chief Executive the matter will be dealt with by the Monitoring Officer. In the absence of the Leader the consultation will be with the Deputy Leader.

At least 5 days before the meeting, a further notice will be published of the

Council's intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be held in private, details of any representations made about holding the meeting in private, and a response to those representations. This notice will be published with the agenda.

### **15.5 Access to Agenda and Rights before the Meeting**

At least 5 clear working days before the meeting, the Council will make copies of the following documents available for inspection by the public at its Council office and will publish them on its website;

- (a) the agenda for the meeting;
- (b) any reports which are to be made available to the public in accordance with these rules; and
- (c) Notice of Intention to hold meeting in Private.

Where a meeting is convened at shorter notice, a copy of the agenda and the associated reports will be made available for inspection as soon as possible and no later than the commencement of that meeting.

If an item is added to the agenda after it has been made publicly available, the revised agenda and any reports relating to the item for consideration will be made available for inspection from the time the item was added to the agenda.

Where reports are prepared after the agenda has been published and circulated to Members, the designated officer shall make each late report available to the public as soon as the report is completed and send it to all Members.

### **15.6 Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Members in connection with an item;

to any person on payment of a charge for postage and any other costs. Copies will be freely available on the Councils website.

Except during any part of a public meeting during which the public are excluded, the Council will make available for use by the public present at the



meeting, a reasonable number of copies of the agenda and reports for the meeting.

## **15.7 Access to Minutes**

The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, options considered and rejected, a record of any conflict of interest declared by any Member and in respect of any declared conflict of interest a note of any dispensation granted, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose Exempt or Confidential Information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

A copy of the minutes of all public meetings will be available for public inspection at the Council offices on weekdays during office hours and will also be available on the Councils website.

## **15.8 Background Papers**

### **List of background papers**

Officers will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

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

but does not include published material or those which disclose Exempt or Confidential Information (as defined in paragraph 15.11 and in respect of Cabinet reports, the advice of a political advisor).

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

The Council will make available for public inspection for at least 4 years after the date of the meeting one copy of each of the documents on the list of background papers at the Council office and on the Councils website.

## **15.9 Summary of Public's Rights**

These Rules constitute a written summary of the public's rights to attend meetings and to inspect and copy documents.

### **15.10 Recording of Meetings by Persons Present**

#### **Requests from reporters**

The Chairman shall respond to requests made in accordance with section 100A(6)(c) of the Local Government Act 1972 from any person attending the meeting for the purpose of reporting the proceedings to be afforded reasonable facilities for taking their report.

#### **Use of electronic devices at meetings held in public**

Members of the public or representatives of the media may use electronic devices at meetings held in public for the purposes of filming, audio recording, taking photographs, blogging, tweeting and posting to social media websites.

The use of electronic devices for reporting purposes is, in certain circumstances, recognised as contributing towards transparency and democratic debate and there is a presumption in favour of allowing their use. However, the proceedings of a meeting must not be disrupted by the use of electronic devices and such use must not inhibit the proceedings. Accordingly oral commentary to any recording made during the meeting will not therefore be permitted.

Filming and audio recording of meetings using small devices, is generally permitted.

Any filming or audio recording must take place from fixed positions in the meeting room, the location of which shall be agreed with the Chairman of the meeting. Equipment must be set up before the meeting starts.

If the Chairman considers that the filming or audio recording is disrupting the meeting in any way, the operator will be required to stop immediately.

No-one is permitted to film, record or report any part of a meeting where the press or public are excluded because Confidential or Exempt Information would be disclosed. This includes Members present at the Meeting.

No restrictions will be placed on anyone in the public gallery at a meeting in relation to the use of social media and photography, provided that there is no flash photography, and the Chairman considers their actions are not disrupting the proceedings of the meeting.

At the start of the meeting the Chairman will request that all mobile phones are set to 'silent' to ensure that the meeting is not disrupted.

## 15.11 Exclusion of Access by the Public to Meetings

### Confidential Information - requirement to exclude public

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

### Meaning of Confidential Information

Confidential Information means information:

- (a) given to the Council by a Government Department on terms which forbid its public disclosure; or
- (b) which cannot be publicly disclosed by any enactment or by Court Order.

### Exempt Information - discretion to exclude public

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

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

### Meaning of Exempt Information

Exempt Information means information, which is covered by the Local Government Act 1972, Schedule 12A and falls within the following 7 categories (subject to any condition/qualifications):

	<b>Category</b>	<b>Conditions</b>
1.	Information relating to any individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2.	Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles.
3.	Information relating to the financial	Information within paragraph 3 is

	or business affairs of any particular person (including the authority holding that information.	not exempt if it must be registered under <ul style="list-style-type: none"> <li>• The Companies Act 1985;</li> <li>• The Charities Act 1993;</li> <li>• The Friendly Societies Acts 1974;</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978; and</li> <li>• The Building Societies Act 1986.</li> </ul>
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.	Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the Council in those or any other consultations or negotiations in connection with a Labour relations matter.  “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the Council proposes:  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

In determining whether the exemptions above can be applied the public interest test as applicable under the Freedom of Information Act 2000 shall be applied. Accordingly, the information will only remain exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **15.12 Exclusion of Access by the Public to Reports**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Paragraph 15.11, the meeting is likely not to be open to the public.

Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

### **15.13 Application of Rules to the Cabinet**

If the Cabinet or its Committees meet to take a Key Decision then it must comply with paragraph 15.1 – 15.11 unless paragraph 15.16 or paragraph 15.17 apply. A Key Decision is as defined in Article 7 of this Constitution.

This requirement does not include meetings, whose sole purpose is for Officers to brief Councillors.

Paragraphs 15.14 – 15.23 also apply to the Cabinet and its Committees.

### **15.14 Procedure before taking Key Decisions**

Subject to paragraph 15.16 or paragraph 15.17, a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with paragraph 15.3 and if the decision is to be taken in private at the meeting, notice has been given in accordance with paragraph 15.4.

### **15.15 Forward Plan**

The Forward Plan will be available for inspection by the public at the Council offices and on the Councils website.

#### **Period of Forward Plan**

The Forward Plan will be prepared on behalf of the Leader to cover a period of at least three months, beginning with the first day of any month.

The Forward Plan will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet in the course of the discharge of an executive function.

The Forward Plan will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name together with the relevant officers' contact details;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision; and
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter.

### **15.16 General Exception from inclusion on the Forward Plan**

Where the publication of the intention to make a Key Decision on the Forward Plan is impracticable, then subject to paragraph 15.17 the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until notice has been given on the Forward Plan for at least 28 clear calendar days;
- (b) the proper officer has informed the Chairman of the Corporate Scrutiny Committee, or if there is no such person, each member of the Corporate Scrutiny Committee, by notice in writing, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council and on its website; and
- (d) at least five clear days have elapsed since the proper officer complied with (a) and (b) above.

Where such a decision is taken collectively, it must be taken in public.

As soon as reasonably practicable after the proper officer has complied with 15.16 they must make available at the Council office and on the Council website a notice setting out the reasons why it is impracticable to defer the decision.

### **15.17 Special Urgency relating to Key Decisions**

If by virtue of the date by which a decision must be taken paragraph 15.15 cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision (where permitted by this Constitution), obtains the agreement of:

- (a) the Chairman of the Corporate Scrutiny Committee; or
- (b) if there is no Chairman of the Corporate Scrutiny Committee, or the Chairman of that Committee is unable to act, then the agreement of the Chairman of the Council, or in the absence of the Chairman of the Council the Vice- Chairman of the Council.

That the taking of the decision is urgent and cannot be reasonably deferred.

As soon as reasonably practicable after the agreement has been obtained a notice must be made available at the Council office and on the Councils website setting out the reasons why the matter is urgent and why it cannot reasonably be deferred.

### **15.18 Reports on Special Urgency Decisions**

The Leader will submit a report to the next practicable ordinary meeting of the Council, on Key Decisions taken by the Leader, Cabinet or Chief Executive where the making of the decision was agreed as urgent in accordance with paragraph 15.17. The report will include the number of decisions made, the particulars of each decision made and a summary of the matters in respect of which those decisions were made.

### **15.19 Report to Council where the Key Decision procedure is not followed**

If an executive decision has been made and not treated as a Key Decision and the Corporate Scrutiny Committee is of the opinion that the decisions should have been treated as a Key Decision, the Committee may require the Cabinet to submit a report to the Council within such reasonable period as the Committee may specify.

### **15.20 Cabinet's Report to Council**

In the event that the Corporate Scrutiny Committee request a report in accordance with paragraph 15.19, the Cabinet must prepare a report for submission to the meeting of Council specified by the Committee. However, if the next meeting of the Council is within 7 days of receipt of the written notice, then the report may be submitted to the next Council meeting.

The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

### **15.21 Records of Decisions**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce and publish a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting; any interest declared in relation to the matter decided by any Member of the decision-making body which made the decision and in respect of any declared interest a note of any dispensation granted by the Head of Paid Service.

### **15.22 Attendance at Private Meetings of the Cabinet**

All Members of the Cabinet will be served notice of, and are entitled to attend, all private meetings of the Cabinet or Committees of the Cabinet.

The Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and the Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend any private meeting of Cabinet.

### **15.23 Decisions by Individual Cabinet Members**

No Cabinet Member shall take a decision unless they have been provided with a report on the issues by the relevant officer. Such report shall contain clear details of the issue, the decision the Cabinet Members is being asked to take, and the details of any alternative options that have been considered.

Such report should be delivered to the Monitoring Officer for publication where the recommendations within the report have been approved by the Cabinet Member.

As soon as reasonably practicable after an executive decision has been taken by an individual Cabinet Member, a record of the decision shall be prepared and will include:

- (a) the date it was made,
- (b) a statement of the reasons for it,
- (c) any alternative options considered and rejected,
- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the decision-maker and in respect of any interest declared a note of any dispensation granted by the Head of Paid Service.

This information can be included within the initial report where appropriate to do so.



As soon as practicable after the decision has been taken the report and the decision must be:

- (a) published on the Council's website; and
- (b) circulated to all Members.

#### **15.24 Record of Individual Officer Decision**

As soon as reasonably practicable after an Officer has made a decision delegated to them by the Council or any of its committees, or by the Cabinet or a Cabinet Member, then the decision must be recorded if:

- (a) it relates to the discharge of an executive function; or
- (b) it is a decision which is not the responsibility of the Executive, and the effect of the decision is:
  - (i) to grant a permission or licence; or
  - (ii) to affect the rights of an individual; or
  - (iii) to award a contract or incur expenditure.

Such a record must be produced by or on behalf of the officer concerned and must include a record of the decision including:

- (a) the date it was made,
- (b) a statement of the reasons for it,
- (c) any alternative options considered and rejected,
- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the officer and in respect of any interest declared a note of any dispensation granted.

As soon as practicable after the decision has been taken the report and the decision must be:

- (a) published on the Council's website; and
- (b) circulated to all Members.

The provisions of Rules 15.7 and 15.8 will also apply to the making of decisions by individual Cabinet Members and decisions taken by Officers which are required to be recorded. This does not require the disclosure of Exempt or Confidential Information or advice from a political assistant.

## **15.25 Additional Rights of Access for Councillors**

Any document which is in the possession of, or under the control of, Cabinet or its Committees and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member for at least five clear days before the meeting except where the meeting is convened at shorter notice.

Such a documents must be available when the meeting is convened and when an item is added to the agenda at shorter notice such a document must be available for inspection at the time the item is added to the agenda.

Any document which is in the possession of, or under the control of, the executive of a local authority and contains material relating to any business transacted at a private meeting or any decision made by a Cabinet Member or Officer in accordance with executive arrangements must be available for inspection by any Member when the meeting concludes or immediately after the decision has been made and in any event within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

The above does not require a document to be available for inspection if it appears to the Proper Officer that it discloses:

- (a) exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act unless it is information of a description falling within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by the Authority in the course of negotiations for a contract) or paragraph 6; or
- (b) advice provided by a political adviser or assistant.

## **15.26 Scrutiny Committee's Access to Documents**

### **Rights to copies**

Subject to the provisions below, the Scrutiny Committees (including its working groups) will be entitled to copies of any document which is in the possession of, or control of, the Cabinet or its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its Committees; or
- (b) any decision taken by a Cabinet Member or any Key Decision.

### **Limit on rights**

The Scrutiny Committees (including its working groups) will not be entitled to:

- (a) any document that is in draft form;

- (b) any part of a document that contains Exempt or Confidential Information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

### **15.27 Written Member Questions**

A Member may ask the Leader or a Cabinet Member any question on any matter in respect of which the Cabinet has powers or duties, or which affects the District.

A Written response will be provided within 10 working days.

A copy of the question and its response will be circulated to all Members for their information.

## **16. Financial Procedure Rules**

### **16.1 Introduction**

The Council is required by section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2015 to conduct its business efficiently and to ensure that it has sound financial management policies in place, which are strictly adhered to. Part of this process includes the establishment of Financial Procedure Rules, which set out the financial policies of the Council.

The Council is further required by the Local Government and Housing Act 1989 to make proper arrangements for its financial affairs and secure that one of its officers, the Responsible Financial Officer, has responsibility for the administration of those affairs. That officer is to be a member of one or more of the accountancy bodies specified in the Act.

Officers are required to have regard to these Financial Procedure Rules, the Procurement Procedure Rules, the Schemes of Delegation, the roles of the Cabinet and Corporate Scrutiny Committee, and the Protocol on Member/Officer Relations. Consideration should also be given to the Council's policies relating to Anti-Fraud and Corruption, Anti-Money Laundering, Whistle-blowing, and Employment.

The Financial Procedure Rules may be supplemented by more detailed notes of guidance for the purpose of implementing and operating these Finance Procedure Rules. Such notes and guidance will expand, but not contradict the Finance Procedure Rules and in all cases Financial Procedure Rules shall take precedence.

### **16.2 Purpose and Status of the Financial Procedure Rules**

The Financial Procedure Rules provide the framework for managing the Council's financial affairs. They also form an important element in the Council's overall Corporate Governance Framework.

These Financial Procedure Rules set out the financial policies and framework for managing the Council's financial affairs, and are organised around six themes, as follows:

- (a) Financial Management
- (b) Financial Planning and Control of Expenditure;
- (c) Risk Management and Internal Control
- (d) Property and Resources;
- (e) Financial Systems and Procedures; and
- (f) Partnerships and External arrangements.

They seek to ensure that the Council conducts its financial affairs in a way that complies with specific statutory provisions, generally accepted accounting principles and professional good practice.

Officers and Members are authorised to make decisions in accordance with these Financial Procedure Rules, but they do not authorise any person to make a decision which is contrary to any provision in the Constitution. The Financial Procedure Rules apply to every Member and Officer of the Council and anyone acting on its behalf.

Arrangements for controlling financial activity within the Council are hierarchical. At the highest level the Financial Procedure Rules set out the financial responsibilities of the Council, Cabinet, Members, Chief Officers, Responsible Finance Officer, the Monitoring Officer and other senior officers.

The Financial Procedure Rules that follow are a range of detailed sets of guidance which set out the responsibilities and expectations of:

- (a) Members;
- (b) Management Board, Heads of Service and their Officers;
- (c) S.151 Officer and Officers; and
- (d) Organisations acting on behalf of the Council.

All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised and provides value for money.

The S.151 Officer is responsible for:

- (a) reviewing the Financial Procedure Rules and submitting any additions or changes necessary to the Governance and Audit Committee for recommendation to the Council for approval;
- (b) reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Cabinet or the Corporate Scrutiny Committee;
- (c) issuing advice and guidance to underpin the Financial Procedure Rules.

The Chief Officers are responsible for ensuring that all appropriate Officers in their service areas are aware of the Financial Procedure Rules and any other internal regulatory documents and that they comply with them. Any disagreement arising over the interpretation, intention or application of the Financial Procedure Rules shall be determined by the S.151 Officer.

It may be considered a disciplinary offence if any officer fails to comply with these Financial Procedure Rules. Officers have a duty to report apparent breaches of Financial Procedure Rules to an appropriate senior manager and relevant Corporate Director. The senior manager should report breaches of

the Financial Procedure Rules to the S.151 Officer and the Monitoring Officer who will decide what, if any, further action needs to be taken.

The financial limits set out within these Financial Procedure Rules are reviewed and where appropriate revised by Council as necessary before the start of the financial year to which they relate as a part of the budget setting process.

The Chief Executive when acting in their capacity as District Controller in emergency matters has authority to incur expenditure outside amounts included within budgets without recourse to the requirements of these Financial Procedure Rules.

### **16.3 Financial Management**

Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

#### **16.3.1 Decision Making Bodies**

##### **The Council**

The Council is responsible for:

- (a) the adoption and revision of these Financial Procedure Rules following a recommendation from the Governance and Audit Committee, subject the provisions set out in the Officer Scheme of Delegation and paragraph 1.7(b); and
- (b) approving and monitoring compliance with the Council's overall framework of accountability as set out in the Constitution and monitoring compliance with agreed policy and reporting decisions taken.

##### **The Cabinet**

The Cabinet is responsible for controlling the Council's financial resources and discharging Executive functions in accordance with the Policy Framework, revenue budget and capital programme.

##### **Cabinet Member for Resources and Performance**

The Cabinet Member for Resources and Performance is responsible for reviewing the adequacy and efficiency of the arrangements for all matters relating to the financial administration of the Council.

##### **Cabinet Members**

Cabinet Members are responsible for:

- (a) proposing revenue budgets to the Cabinet after taking account of corporate priorities and the Council's financial position as provided in the Medium-Term Financial Strategy; and

- (b) reviewing the financial administration and performance of the services covered by their portfolio including the administration of revenue budgets and capital programme.

### **Corporate Scrutiny Committee**

In line with their functions set out in Article 9, the Corporate Scrutiny Committee is responsible for:

- (a) ensuring that the actions of the Cabinet accord with the policies and budget of the Council;
- (b) monitoring and scrutinising the financial performance of the Council, performance reporting and to make recommendations to the Cabinet particularly in relation to financial outturns, annual revenue and capital expenditure, bids and submissions; and
- (c) reviewing the Council's spending proposals to the policy priorities and reviewing the progress towards achieving those priorities against the Corporate Strategy and Annual Plans.

### **Governance and Audit Committee**

The Governance and Audit Committee is responsible for considering and approving the Council's Statement of Accounts and the Council's financial accounts, and reviewing the Council's external auditor's annual audit letter, in line with their functions set out in Article 9.

## **16.3.2 Officers**

### **The Head of Paid Service**

The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. They must report to and provide information to the Cabinet, the Council, Corporate Scrutiny Committee and other Committees and Panels. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

### **The Monitoring Officer**

The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or maladministration and for ensuring that the procedures for recording and reporting Key Decisions are operating effectively.

The Monitoring Officer and the Responsible Finance Officer are also responsible for advising Cabinet or Council if a decision could be considered contrary to the Budget.

### **The Responsible Finance Officer (S.151 Officer)**

The Responsible Finance Officer, under Section 151 of the Local Government Act 1972, has overall responsibility for the financial affairs of the Council including the promotion of good financial management throughout the organisation, so that public money is safeguarded at all times, and used appropriately, economically, efficiently and effectively.

The S.151 Officer is a key member of the leadership team, helping it to develop and implement strategy and to resource and deliver the organisation's objectives for the long term and in the public interest. They are actively involved in, and able to bring influence to bear on all material business decisions, to ensure that the immediate and longer-term implications, opportunities and risks are fully considered, and consistent with the overall financial strategy.

After consulting with the Chief Executive and the Monitoring Officer, the S.151 Officer will report to the Council or to Cabinet in relation to a Cabinet function and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

The S.151 Officer, if necessary, in conjunction with the Chief Executive and after consultation with the Leader, shall have the powers to take any action necessary to safeguard the interests of the Council.

In addition to the functions set out in Chapter 4, The S.151 Officer has responsibility for:

- (a) the proper administration of the Council's financial affairs. This includes setting and monitoring compliance with financial management standards, advising on the corporate financial position and on key financial controls, providing financial advice, advising on preparation of revenue and capital budgets, and treasury management;
- (b) maintaining an adequate and effective system of internal audit as required under the Accounts & Audit Regulations 2015;
- (c) reviewing and making recommendations as to the financial limits set out in the Financial Procedure Rules not less than annually in advance of the year to which they relate and making arrangements to bring the Financial Procedure Rules to the attention of Officers likely to be involved in financial matters; and
- (d) advising committees on all financial matters. They must be consulted on all financial matters and given adequate opportunity to provide written comments in any report with financial implications.

Where the urgency procedures set out in the Constitution are to be invoked, the S.151 Officer must first be consulted on financial and other resource implications.



## **Corporate Directors**

The Corporate Directors are responsible for advising/consulting with Heads of Service and Cabinet Members on the financial implications of cross-cutting proposals.

## **Heads of Service**

Must operate efficient systems of financial control and are responsible for:

- (a) financial administration of the services under their control in accordance with the provisions of these Financial Procedure Rules, and any guidance as may be issued from time to time by the S.151 Officer;
- (b) timely provision of such information on the financial affairs of their services as the Corporate Director (Support Service) may request;
- (c) ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Corporate Director (Support Service);
- (d) Consulting with the Corporate Director (Support Service) and seeking their approval on any matter that could materially affect the Councils financial position before any commitments are incurred;
- (e) Notifying the S.151 Office of any situation that may create a contingent liability, potential claim or litigation;
- (f) refer to the S.151 Officer for approval of any significant development of local financial systems;
- (g) report to the S.151 Officer immediately any circumstances which may suggest the possibility of financial irregularity;
- (h) ensure effective co-operation with both internal and external audit as required by the Accounts and Audit Regulations; and
- (i) give internal audit the opportunity in a timely manner to evaluate the adequacy of controls of any development or major change to a financial system before live operation.

## **Money Laundering Reporting Officer**

The Head of Finance is appointed as the Money Laundering Reporting Officer. They are responsible for notifying the National Criminal Intelligence Service (NCIS) of any suspected cases of money laundering committed within the accounts of the Council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post.

### **16.3.3 Delegated Authority**

The Chief Officers and Heads of Service are required to carry out tasks in accordance with these Financial Procedure Rules. They may authorise other officers to carry out tasks for which they have responsibility as set down by

these Financial Procedure Rules. A record of all such authorities must be prepared and submitted to the S.151 Officer and the Head of Governance.

#### **16.3.4 Accounting Arrangements**

The S.151 Officer is responsible for keeping the accounts and financial records of the Council. They must also approve accounting and other systems with a financial function and accounting records of services.

Accounting procedures will reflect recommended professional practices, and follow accounting principles as determined by the S.151 Officer. Accounting procedures will be reviewed as necessary by the S.151 Officer in consultation with Heads of Service to ensure that they provide the information required by both without duplication of records.

No change to existing accounting procedures may be made without prior consultation with the S.151 Officer.

The S.151 Officer must examine and certify where required any submission, estimate or claim for payment of grant by a Government Department or funding from any other body. Officers responsible for the administration of such grants, funds and spending associated with them must ensure compliance with the conditions of the grant/funding.

The S.151 Officer must examine and certify where required any financial return to a Government Department or other body.

#### **16.3.5 Year-end Accounting**

The Cabinet is responsible for approving the annual Revenue and Capital Outturn and for agreeing procedures for carrying forward under and over-spending on budget headings. The Council's final financial position as presented in the Annual Statement of Accounts will be approved by the Governance and Audit Committee on behalf of the Council.

#### **16.3.6 Annual Statement of Accounts**

The S.151 Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC), for each financial year ending 31st March.

Detailed guidance is issued each year to ensure that the relevant information is collected, and that the statutory deadline is achieved.

The accounts are subject to external audit, the objective of which is to provide assurance that the accounts have been prepared correctly, that proper accounting practices have been followed and that high quality arrangements have been made for securing economy, efficiency, and effectiveness in the use of the Council's resources.

### 16.3.7 Revenue Virements

A Virement is the movement of budget from one area to another. A Virement between budgets is an integral and important feature of budgetary control. It provides the Head of Service and budget manager with the flexibility to adapt expenditure patterns to meet changing locally determined service needs and objectives or respond to unforeseen cost increases. Virements should not be done simply to balance over and underspends that have occurred.

A Virements can be either in-year or permanent, with recurring virements requiring an adjustment to the base budget. There are also operational (non-technical) virements and technical virements. An operational virement is where the budget holder moves a budget from one area to another. It may be within the same cost centre or a different one.

Virements shall be allowed only where they are within the overall Policy Framework and do not involve an increasing commitment in future years which cannot be contained within existing approved budget allocations, as determined by the Council.

The authorisation thresholds for the approval of a virement is as follows:

- (a) Heads of Service may authorise a Virement of up to £10,000 within services within the same portfolio;
- (b) Heads of Service after consultation with the S.151 Officer and the relevant Corporate Director, may make a virement of up to £25,000 between services within the same portfolio;
- (c) A Cabinet Member, after consultation with the S.151 Officer, may authorise a Virement of up to £50,000 within their Portfolio or between Portfolios with the consent of the relevant Cabinet Members;
- (d) The Cabinet may make a virement of between £50,000 to £100,000 following a written report by the relevant Head(s) of Service and S.151 Officer; and
- (e) The Council shall determine requests which fall outside of these criteria.

**Table A**

Financial Limits	Virement to be approved by:				
	Heads of Service (notification to S.151 Officer)	Corporate Director (Finance)	Cabinet Portfolio Member	Cabinet	Council
Up to £10,000	Y	Y	Y	Y	Y
£10,001-£25,000	Y (in consultation with Corporate Director (Support Service))	Y (in consultation with the relevant Corporate Director)	Y	Y	Y

	S.151 Officer and the relevant Corporate Director)				
£25,001-£50,000			Y	Y	Y
£50,001- £100,000				Y	Y
Over £100,001					Y

*Note: These limits apply to the budget head (this means CIPFA subjective budget group total e.g. employees, supplies and services, etc.), which is being increased.*

In addition, if more than one virement action is required on a single budget head in a financial year, then the accumulation value of such virement action shall be in line with the level of authorisation as detailed above.

Heads of Service will notify the S.151 Officer of all revenue virement decisions before the expenditure is committed.

### **16.3.8 Technical Virements**

The authorisation limits set out above do not apply to technical virements and these may be authorised by the S.151 Officer. A technical virement could include a technical accounting matter across several services areas. For example, introducing or changing capital charges, recharging of support services, pension fund items etc. It might also include:

- (a) an adjustment to salaries budgets if the pay award was agreed at a different level to that allowed in the original budget, and it was agreed that budgets should be amended to reflect this.
- (b) Where a new grant is received during the year that is dependent on incurring additional cost and where it is very specific as to what the grant is for, or a decision had been made as to what the grant was for.
- (c) Where cost centres are reorganised and therefore budgets are moved to reflect a revised structure.
- (d) Where revenue spend occurred but should be classed as capital.
- (e) Approved budget carry forward requests.

### **16.3.9 Capital Virements**

A Capital Virement shall be allowed only where they are within the overall Policy Framework and do not involve an increasing commitment in future years which cannot be contained within existing approved budget allocations, save as determined by the Council.

The authorisation thresholds for the approval of a virement is as follows:

- (a) The S.151 Officer may authorise a virement of up to £150,000;

- (b) The Cabinet may make a virement of up to £250,000 following a written report by the relevant Chief Officer(s) and S.151 Officer; and
- (c) The Council shall determine requests which fall outside of these criteria.

**Table B**

<b>Current Limits</b>	<b>Virement to be approved by:</b>		
	<b>S.151 Officer</b>	<b>Cabinet</b>	<b>Council</b>
Under £150,000	Y	Y	Y
Under £250,000		Y	Y
£250,000 and over			Y

*Note: The limits apply to the programme head being increased.*

### **16.3.10 Carry Forwards**

An extension of Virement is the ability to carry forward over or under spending into the next financial year. It prevents the rush to spend up to budget at the end of the financial year, which can lead to poor spending decisions.

These are generally used where it is known that material budgeted expenditure will not be incurred until the next financial year and will be allowed in accordance with guidelines issued by the S.151 Officer.

Unspent balances will only be considered for carry forward where:

- (a) The Councils revenue /capital programme is not overspent in total; and
- (b) Reserves and balances are at an appropriate level

Other considerations which may support the case are:

- (a) The item is fully funded from a grant and the grant will be lost if the item is not carried forward
- (b) Budgets for specific projects that have not started or where there is slippage in delivery, and the funding for which has not been included in the following year's budget
- (c) The cost cannot be accommodated within the next financial year's budget
- (d) Considered for essential statutory expenditure.

### **16.3.11 Financial Training**

Heads of Service are responsible for ensuring that Officers receive appropriate training to undertake their financial responsibilities, in accordance with any standards set by the S.151 Officer

### **16.3.12 Use of Capital Receipts**

All capital receipts will be treated as corporate capital receipts unless specific approval is obtained from the Cabinet or a Committee of Cabinet for an alternative treatment.

## **16.4 Financial Planning and Control of Expenditure**

There is a need for sound planning, monitoring and control of resources. Sound budget management is crucial to informing good decision making and achieving best value in the use of the Councils resources.

### **16.4.1 Policy Framework**

The Council is responsible for delivering a wide variety of services. The budget is the financial expression of the Council's plans and policies. The Policy Framework is aligned to the Corporate Strategy and Corporate Framework. The Framework enables scarce resources to be allocated in accordance with priorities.

These Frameworks allocates responsibilities as follows:

- (a) The Council is responsible for determining the Council's revenue budget and capital programme.
- (b) The Cabinet is responsible for submitting proposals for the revenue budget and capital programme to the Council.
- (c) Cabinet Members are responsible for recommending a revenue budget and capital programme for the services under their control to the Cabinet.
- (d) Heads of Service are responsible for submitting draft revenue budgets and capital project justifications for services under their control to the Cabinet Portfolio Holder.
- (e) The S.151 Officer is responsible for recommending a budget strategy to the Council.

### **16.4.2 Business Plans**

The Business Plans are a key element of the management of the organisation. These involve setting objectives, priorities, targets and plans, including financial plans, for all key service areas.

Performance against objectives, priorities and targets is monitored regularly with a view to achieving an integrated planning and review process across the Council.

The Corporate Strategy sets out the Council's objectives for the next four years. An Annual Plan sets out how the Council will achieve the outcomes and overall actions that are set out in the Corporate Strategy.

The Chief Executive is responsible for proposing the Corporate Strategy to the Cabinet for consideration before its submission to the Council for approval.

### **16.4.3 Financial Planning and Control**

To deliver the Corporate Strategy the available financial resources must be allocated in the most effective way. A robust challenge process must be in place to ensure that the decisions made are achieving value for money. The budget process is an integral part of performance management.

Forward planning requires:

- (a) planning at least four years ahead;
- (b) linking resources to the Corporate Strategy;
- (c) ensuring that a balanced budget will be delivered; and
- (d) looking at opportunities for efficiencies and income.

Managing the current budget requires:

- (a) regular reporting of the budget; monthly reports to all Heads of Service, and quarterly to the Corporate Scrutiny Committee to look at areas of potential over and under spend and progress on income generation; and
- (b) checking that value for money is being achieved e.g. comparing costs and looking at procurement practice and opportunities.

### **16.4.4 Budget Format**

The general format of the budget will be approved by the Council. The draft budget should include allocation to different services and projects, proposed taxation levels, contingency funds and allocations to / from reserves and balances.

### **16.4.5 Revenue Budget Preparation**

The S.151 Officer is responsible for ensuring that a revenue budget for the coming year and a medium-term financial forecast for at least the three subsequent financial years are prepared for consideration by the Cabinet. The budget and the medium-term financial forecast are both driven by the Corporate Strategy.

The S.151 Officer is responsible for providing a budget strategy, timetable and guidance on the general format of the budget. The budget strategy will detail the Council's financial position taking account of central government criteria and medium-term prospects where appropriate.

Heads of Service will:

- (a) prepare, in consultation with the relevant Cabinet Member and in accordance with the framework set down by the S.151 Officer, an

estimate of income and expenditure for the ensuing financial year within the spending targets set by the Cabinet.

- (b) when drawing up draft budgets, have regard to such matters as spending patterns and pressures revealed through the budget monitoring process; legal requirements; the Council's policies and objectives; initiatives already underway or committed
- (c) ensure that budget submissions are consistent with the Council's Corporate Objectives
- (d) consult with their Corporate Director to determine the likely financial implications of cross-cutting initiatives and other associated activities and ensure that any such implications are reflected in the draft revenue budgets and capital programme for the services under their control;
- (e) ensure that there are adequate explanations for changes to the budgets;
- (f) ensure that their proposals are robust and that they have identified all of the issues and provide assurance to the S.151 Officer.

The S.151 Officer will:

- (a) prepare and submit reports to Cabinet on the aggregate spending plans of services and on the availability of resources to fund them identifying, where appropriate, the implications for the level of council tax to be levied;
- (b) advise on the medium-term implications of spending proposals and decisions; and
- (c) advise on the corporate impact of capital schemes on the revenue budget.

A Council is legally obliged to set a balanced budget. Under section 25 of the Local Government Act 2003 the S.151 Officer is responsible for reporting to the Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

The S.151 Officer is responsible for providing advice on the available funding options for the budget. This includes advice on central government and other external funding, options for borrowing, and any other opportunities including income generation.

#### **16.4.6 Budget Monitoring**

The S.151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. The S.151 Officer must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular (at least quarterly) basis.



It is the responsibility of Heads of Service to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the S.151 Officer. Heads of Service must ensure that there is a clear allocation of responsibility for revenue budget at cost centre level and capital schemes within their areas. Budget responsibility should be aligned as closely as possible to the decision making that commits expenditure. They should report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the S.151 Officer to any problems. The notification must also include an explanation of how the Head of Service intends to ensure that the variance is minimised.

All budgets, unless otherwise specifically identified, will be set on a cash limited basis and may be changed only by means of a supplementary estimate or virement.

A Head of Service shall not incur a liability which would cause expenditure to exceed an approved budget head unless this can be met by way of a supplementary estimate or virement. The necessary approval must be obtained in advance of the relevant commitment being made.

Any proposal which, if adopted, is likely to involve expenditure or future commitments not provided for in the existing revenue budget shall be the subject to the provisions set out in the Budget and Policy Framework Procedure Rules.

#### **16.4.7 Resource Allocation**

The S.151 Officer is responsible for developing and maintaining a resource allocation process that ensures that both capital and revenue expenditure plans take account of the Policy Framework and changing priorities within that.

It is the responsibility of Heads of Service to ensure that the revenue and capital budget estimates reflect agreed service plans, are in line with the medium-term financial strategy, the capital strategy and that they follow any guidance issued by the Cabinet. The guidance will take account of the following:

- (a) Legal requirements
- (b) Medium term planning prospects
- (c) The Corporate Strategy
- (d) Available resources and spending pressures
- (e) Value for Money
- (f) Other cross cutting issues

#### **16.4.8 Preparation of the Capital Programme**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, major items of plant and equipment, vehicles or new technology. Capital assets shape the way services are delivered for the long term and create financial commitments for the future in the form of financing costs, revenue running costs and lifecycle costs.

The S.151 Officer is responsible for:

- (a) ensuring that a capital programme is prepared annually;
- (b) that the capital programme is consistent with corporate, service and asset management objectives and priorities;
- (c) that there is a robust process for scrutinising the capital schemes to be added to the capital programme;
- (d) that the programme is affordable, prudent and sustainable in accordance with the Prudential Code issued by CIPFA.

Corporate Directors and Heads of Service must not enter into credit arrangements, such as leasing or contract hire agreements without the prior approval of the S.151 Officer and, if applicable, approval of the arrangement should be included as part of the capital programme.

New capital scheme bids will be considered as part of the Capital Strategy. The Capital Strategy will include an assessment of known and forecast capital resources alongside details of new capital bids and will be prepared with reference to the Council's Asset Management Plan.

New schemes or schemes with significant changes will only be considered following a report to the S.151 Officer from the Chief Officer with responsibility for the project, setting out:

- (a) a full description of the project;
- (b) justification, including its relative priority;
- (c) estimated cost of alternative methods of meeting the need;
- (d) proposed date of commencement and the estimated expenditure in each year of construction;
- (e) any other important details, i.e. land acquisitions; and
- (f) estimated revenue profiles at current prices of the fully operational scheme.

All new capital schemes require the submission of a project justification to the Cabinet. The Cabinet may amend, including deferral or deletion, any item included in the draft capital expenditure programme and, after any appropriate consultations, shall recommend a capital expenditure

programme for approval by the Council. This programme shall comply with statutory requirements and be capable of being funded. The Council will consider schemes based on the recommendations of the Cabinet.

Once agreed by the Council, new capital schemes become part of the capital programme. All capital schemes exceeding £10,000, including those funded by third party grants and contributions, to be included in the Council's Capital Programme.

Where a Capital Scheme appears in the Capital Programme, the revenue consequences of that scheme shall be incorporated into the revenue budget of the appropriate Portfolio(s).

A Head of Service may incur expenditure on the preliminary planning of a Capital Scheme providing that the Capital Scheme has been the subject of a report to the Cabinet and sufficient provision is available within the Revenue Budget and/or Capital Programme to meet the estimated cost of the preliminary works.

Other than provided for above, no capital spending may be incurred on or committed to a Capital Scheme until it appears in the Capital Programme.

Inclusion of a Capital Scheme within the Capital Programme will authorise the relevant Head of Service to seek tenders to undertake the work subject to:

- (a) the provisions of Procurement Procedure Rules; and
- (b) Cabinet not having placed a specific requirement to report back prior to the issuing of tender documents.

Where the current estimated cost of a capital scheme is greater than the amount provided for in the Capital Programme, then, prior to tenders being sought, the relevant Head of Service is to report to the appropriate Cabinet Member identifying the current estimated cost and the reason(s) for the excess. Progress shall be conditional on the Cabinet Member's approval and the identification of sufficient funding resources from within the Capital Programme, and that the revenue cost (where appropriate) can be contained within the Revenue Budget. Where these requirements cannot be met, a report will be submitted to the Cabinet.

When approving the Capital Programme, Cabinet may place a requirement for a report to be made to Cabinet prior to tenders being sought upon specific Capital Schemes. This report will show the total current estimated cost, total current estimated revenue costs, the funding sources and any other details required by the Cabinet.

Heads of Service are responsible for the control of expenditure against the approved Capital Programme. A report on the progress of all capital projects will be considered periodically by the Cabinet Member and by Cabinet, in accordance with the Performance Management framework.

#### **16.4.9 Treasury Management, Prudential Code and Minimum Revenue Policy**

The Cabinet Member for Resources and Performance, in conjunction with the S.151 Officer, will propose an annual Treasury Management Strategy, a set of Prudential Indicators and a policy for making revenue provision for the repayment of debt (referred to as the 'Minimum Revenue Provision' policy) to the Council in advance of the start of the relevant financial year. These will be consistent with the Council's revenue budget and capital programme proposals.

These documents are required to comply with CIPFA's Codes of Practice on Treasury Management and the Prudential Framework for Capital Finance, relevant Regulations and with the Council's own Treasury Management Policy Statement and Treasury Management Practices; they will set the parameters within which investment and borrowing activity will be managed during the forthcoming financial year.

#### **16.4.10 Maintenance of Reserves**

It is the responsibility of the S.151 Officer to provide Cabinet with a written report on levels of reserves that are considered prudent. This advice to be based on an annual risk assessment of the Council.

#### **16.4.11 Medium-Term Financial Strategy (MTFS)**

The MTFS brings together the key assumptions about financing resources (including council tax, non-domestic rates and business rates retained) and spending pressures over the medium to longer term. This enables the Council to plan for financial risks and thus inform the setting of service financial targets for the annual revenue budget and capital payments guidelines. The S.151 Officer will ensure that reports are presented to Council, as part of the annual budget setting, upon the medium-term budget prospects and the resource constraints set by the Government.

#### **16.4.12 Pay Policy Statement**

The pay policy statement will be prepared as required by law. At present it is required to set out the Council's policy on the level and elements of remuneration for each Chief Officer, the remuneration of its lowest paid Officers, and the relationship between the remuneration of its Chief Officers and other officers. It is also required to address other specific aspects of Chief Officer remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

#### **16.5 Risk Management and Internal Control**

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. Equally, internal controls are required to guard against risk.

### **16.5.1 Risk Management Responsibilities**

All organisations face risks to their people, property, finances, services, reputation and continued operations. Risk management is about systematically identifying and actively managing these risks. It is an integral part of good business practice and is essential to securing the Council's assets and to ensuring continued financial and organisational well-being.

Risk can be mitigated by:

- (a) transferring the risk to a third party, e.g. through insurance;
- (b) implementing additional controls to minimise the likelihood of the risk occurring and/or minimising its potential impact (e.g. through regular inspection and continuous monitoring of identified key risk areas);
- (c) establishing and regularly testing business continuity and disaster recovery procedures to deal with the consequences of events and minimise potential disruption;

The Chief Officers are responsible for promoting the Council's Risk Management Policy Statement.

The S.151 Officer is responsible for:

- (a) preparing and promoting the Council's Risk Management Policy Statement and developing risk management controls in conjunction with Heads of Service;
- (b) arranging and administering insurance cover; and
- (c) assisting the Council to put in place an appropriate control environment and effective internal controls.

Corporate Directors and their Heads of Service are responsible for:

- (a) ensuring that there are continuous reviews of risk within their service areas;
- (b) maintaining detailed risk registers and action plans, and maintaining business continuity plans
- (c) notifying the S.151 Officer of matters related to insurance requirements or claims;
- (d) managing processes to ensure that established controls are being adhered to and to evaluate their effectiveness;  
reviewing controls in the light of changes affecting the Council and implementing new ones as necessary with guidance from the S.151 Officer.

### **16.5.2 Insurance**

The Council maintains insurance cover to deal with the financial consequences of any incident which may give rise to a claim being made by/against the Council or result in financial cost or loss which may not otherwise be provided for.

The Corporate Director (Support Service) is responsible for effecting corporate insurance cover, through external insurance, and negotiating all claims in consultation with Officers as required and will arrange suitable Fidelity Guarantee insurance in respect of all employees. All settlements will be in accordance with the financial limits set out in Chapter 4.

Heads of Service should notify the Corporate Director (Support Service) immediately of:

- (a) Any loss, liability or damage that may lead to a claim being made by/against the Council. Heads of Service should ensure that Officers, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim. It is imperative that Officers comply with the timescales for investigating claims and the insurer's conditions. Failure could directly affect the Council's ability to make or defend a claim or could result in financial penalties being imposed on the authority;
- (b) All new risks, properties or vehicles that may require insurance, and of any alterations or disposals affecting existing insurances.

Heads of Service will ensure that the Corporate Director (Support Service) has prompt access to all records and documents and receives from any Officer, agent or contractor such information and explanations as may be necessary during the conduct of an insurance claim.

Heads of Service should consult the Corporate Director (Support Service) and seek legal advice on the terms of any indemnity that the Council is requested to give.

### **16.5.3 Internal Control**

Internal control refers to the systems devised by management to guard against risk and promote achievement of objectives. More specifically, internal controls promote:

- (a) achievement of business objectives and performance standards;
- (b) compliance with plans, policies, procedures, codes of conduct, laws and regulations;
- (c) the reliability, integrity, timeliness and usefulness of information;
- (d) the legality of transactions and compliance with approved budgets and procedures;
- (e) the safeguarding of people, property, finances, services, continued operations and reputation.

Internal controls are an essential part of the Council's risk management arrangements and should be reviewed on a regular basis. Control systems

should provide for clarity of policies, objectives, targets, responsibilities and accountabilities, and appropriate authorisations and approvals, separation of duties, level of internal check, management information and physical safeguards.

The S.151 Officer is responsible for assisting the Council in putting in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with all applicable statutes, regulations and codes of practice.

The Account and Audit Regulations 2015 require the publication of an Annual Governance Statement. The statement represents the Council annual review of its internal controls and risk management and includes a description and evaluation of the internal control environment, the review process, and any significant issues. The Governance and Audit Committee are responsible for internal controls should seek to satisfy itself that it has obtained sufficient, relevant and reliable evidence to support the disclosures made. Following approval, the Annual Governance Statement shall be signed by the Chief Executive and the Leader, before publication on the Council's website.

#### **16.5.4 Internal Audit**

Internal audit is an independent appraisal function that advises management on the effectiveness of their systems of internal control.

The key features of internal audit are:

- (a) it is independent of service operations in its planning and operation;
- (b) it has sufficient organisational status to facilitate effective discussion and negotiation of the results of its work;
- (c) it utilises risk based methodologies in planning and delivering its work and does not have undue limitations placed on its scope;
- (c) the Audit, Insurance and Fraud Manager has direct access to senior managers, elected members and the external auditor as appropriate;
- (d) Internal auditors comply with guidance issued by professional bodies.

Each Chief Officer and Head of Service must immediately notify the S.151 Officer and Monitoring Officer of any matter which involves or is thought to involve any financial irregularity or impropriety in the exercise of the functions of the Council and take all necessary steps to prevent further loss and to secure records and documents against removal or alteration.

The S.151 Officer shall carry out such audit investigations as they consider necessary, in consultation with the Chairman of the Governance and m, Leader and the relevant Cabinet Member.

Corporate Directors and Heads of Service must ensure the full cooperation of senior management in any investigation and instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

### **Internal Auditors**

The Councils Internal auditors have the authority to:

- (a) access Council premises at reasonable times;
- (b) access all assets, records, documents, correspondence, and control systems;
- (c) receive any information and explanation considered necessary concerning any matter under consideration;
- (d) require any Officer to account for cash, stores, or any other Council asset under their control;
- (e) access records belonging to third parties, such as contractors, when required (note that contracts should specify access rights);
- (f) Directly access the senior managers and elected members where appropriate.

### **The Audit, Insurance and Fraud Manager**

The Audit, Insurance and Fraud Manager will:

- (a) maintain arrangements for an adequate and effective internal audit of the financial transactions of the Council; and
- (b) ensure that the strategic and annual audit plans take account of the characteristics and relative risks of the activities involved.

Corporate Directors and Heads of Service are required to notify the Audit, Insurance and Fraud Manager of new areas of risk which may need to be subject to audit review and ensure that internal auditors are given access at all reasonable times to premises, personnel, documents, and assets and are provided with information and explanations that the auditors consider necessary for the purposes of their work.

Corporate Directors and Heads of Service are also required to consider and respond promptly to recommendations in audit reports, ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the agreed timescale and report on progress.

#### **16.5.5 External Audit**

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. Duties are carried out in



accordance with the code of audit practice issued by the Audit Commission (the Code). This requires the external auditor to review and report upon:

- (a) the Council's Accounts;
- (b) whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources (value for money conclusion).

The Councils external Auditor shall be appointed in accordance with the Procurement Procedure Rules.

The S.151 Officer facilitates the development of the annual audit plan, leads on any negotiations related to the annual audit fee and advises the Cabinet, Corporate Directors and Heads of Service on their responsibilities in relation to external audit and issues arising from the Annual Audit Letter.

Corporate Directors and Heads of Service are required to ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets, and provided with information and explanations which the external auditors consider necessary for the purposes of their work.

Corporate Directors and Heads of Service are also required to consider and respond promptly to recommendations in audit reports, ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the timescale agreed with the external auditor, and report on progress.

#### **16.5.6 Preventing Fraud and Corruption**

The Council is responsible for substantial public funds and other assets and has a duty to demonstrate the highest standards of probity and stewardship in the day-to-day management of its affairs. It is therefore essential to develop and maintain an anti-fraud culture and to create a working climate in which all staff and elected members remain alert to the potential for fraudulent or corrupt behaviour against the Council from outside or inside the organisation and are aware of the mechanisms available for the confidential reporting and investigation of any reported instances.

Responsibility for the prevention and detection of fraud and corruption rests with all Members and Officers. The key controls regarding the prevention of financial irregularities are that:

- (a) the Council has an effective Anti-Fraud, Corruption and Dishonesty Policy, which shall be prepared by the S.151 Officer and maintains a culture that will not tolerate fraud or corruption;
- (b) internal control systems exist which minimise the risk of fraud and corruption occurring;
- (c) all Members and Officers act with integrity and lead by example;

- (d) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are found to be corrupt;
- (e) high standards of conduct are promoted amongst Members;
- (f) a formal code of conduct is established and widely publicised and, as part of this, a register of interests is maintained;
- (g) whistleblowing procedures and prevention of money laundering procedures are in place and operate effectively;
- (h) Legislation including the Public Interest Disclosure Act 1998 and the Freedom of Information Act is adhered to.

The Audit, Insurance and Fraud Manager is responsible for ensuring that effective procedures are in place to identify fraud and investigate promptly any suspected fraud, including cases of both internal fraud and external fraud.

#### **16.5.7 Money Laundering**

Money laundering involves the ‘cleaning’ of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, are introduced into the financial system where they are laundered enabling them to leave the system appearing to come from a legitimate source.

The Council could be subject to money laundering attempts when accepting payments by cash in relation to the payment of substantial bills.

The S.151 Officer is required to have a robust process in place and a programme of awareness raising and training for the detection of money laundering and the reporting of any suspicious related activity.

All Officers have a duty to report any suspicions to the Money Laundering Reporting Officer.

#### **16.6 Property and Resources**

The Council shall have in place adequate arrangements for the disposal and management of its assets.

##### **16.6.1 Security and Control of Assets**

The S.151 Officer shall:

- (a) make adequate arrangements to maintain an asset register of all Council owned assets with a value in excess of £10,000 and ensure that where required, all assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, or such standards as may supersede it; and
- (b) issue guidelines for the disposal of assets: the land disposal procedure is contained within the Code of Governance.

Corporate Directors and Heads of Service must ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Heads of Service are responsible for ensuring that all assets in their control are appropriately maintained and shall:

- (a) make adequate arrangements to maintain a property database in a form agreed with the Corporate Director (Finance) for all properties, plant and machinery and moveable assets;
- (b) ensure the security of all buildings and other assets, including cash, under their control;
- (c) maintain inventories in a form determined by the Corporate Director (Finance);
- (d) make arrangements with the Audit, Insurance and Fraud Manager to ensure that all items are appropriately insured against loss.

All Council assets should be clearly identified and marked as property of the Council where appropriate. No Council asset should be subject to personal use by an Officer without prior authorisation by the relevant Corporate Director.

#### **16.6.2 Property Transactions**

In the course of its day-to-day business, the Council enters into a variety of property agreements, including (but not limited to):

- (a) Freehold acquisitions and disposals;
- (b) Long leasehold acquisitions and disposals;
- (c) Short leases as tenant and as landlord;
- (d) Entering into section 106 agreements as landowner;
- (e) Release of covenants;
- (f) Compulsory acquisitions and land compensation claims;
- (g) Taking and granting easements;
- (h) Option Agreements;
- (i) Assignments; and
- (j) Lease surrenders and exit agreements (including dilapidations).

Each of these transactions has a financial consequence for the Council. Approval is therefore required to authorise such property transactions for completion, and to declare properties surplus to the Council's requirements.

### **Long leasehold and freehold acquisition and disposals**

For long leasehold and freehold acquisitions and disposals authorisation must be obtained in accordance with the following thresholds:

- (a) Where the disposal is issued to reflect a decision taken by Cabinet then the expenditure may be authorised by the officer with delegated authority;
- (b) A disposal up to £50,000 must be authorised by the Head of Service;
- (c) A disposal between £50,000 and £100,000 must be authorised by the relevant Corporate Director;
- (d) A disposal between £100,000 and £150,000 must be authorised by the relevant Cabinet Member; or
- (e) In other cases the expenditure must be authorised by Cabinet.

### **All other Property Transactions**

For all other property agreements, the authorisation must be obtained in accordance with the following thresholds:

- (a) Heads of Service value less than £100,000 per annum;
- (b) Relevant Corporate Director for a value between £100,000 and £150,000 per annum;
- (c) Cabinet Member for Housing, Assets and Skills to authorise between £150,000 and £200,000 per annum; or
- (d) Cabinet for transaction a value in excess of £200,000 per annum.

Once land and buildings have been declared surplus to requirements, the Corporate Director (Growth) will arrange for the disposal of these assets in accordance with the Council's Land Disposal Procedure and only then when it is in the best interests of the Council and when best value is obtained.

The approval of the Cabinet Member for Resources and Performance must be obtained if it is proposed to dispose of the freehold (or a leasehold interest with at least seven years unexpired) in the whole of the Council's interest in a property at a value which is below market value and/or the book value in the previous year's Balance Sheet.

The approval of the Cabinet Member for Resources and Performance must also be obtained if the amount to be realised from the sale of part of an asset will reduce the book value of the remaining asset by more than is being realised. The proceeds from the sale of all land and buildings (subject to certain statutory limitations) will not be earmarked for use by a specific service, but will be pooled and applied to finance future capital investment or for any other purpose permitted by Regulation.

### **16.6.3 Disposal of Other Assets**

From time to time there is a need to dispose of other assets owned by the Council that are not Property Assets. In these situations, the below approval is required:

- (a) Heads of Service may:
  - (i) dispose of non-property assets through sale, donation or scrapping up to a value of £10,000. They must assure themselves that the assets concerned are the property of the Council (rather than a leasing company) before disposing of them; and
  - (ii) ensure that value for money is obtained for every disposal and maintain adequate records demonstrating value for money, the reasons for the disposal, and that the assets are obsolete or surplus to requirements.
- (b) Assets to be disposed of, with a value of between £10,000 and £100,000 must be agreed with the appropriate Corporate Director,
- (c) Assets to be disposed of, with a value of between £100,000 and £150,000 must be agreed with the appropriate Cabinet Member, and
- (d) Assets to be disposed of with a value of over £150,000 must be agreed by the Cabinet.

In all instances, any legal and environmental issues must be addressed when disposing any assets and advice from the Head of Governance on the appropriate method of disposal should be taken.

### **16.6.4 Leasing**

The S.151 Officer shall be responsible for the evaluation and arrangement of all leasing (or similar) facilities. This excludes the short-term hiring of equipment for periods of less than 12 months.

All leasing arrangements shall be entered into by the Head of Governance after consultation with the S.151 Officer, subject to Procurement Procedure Rules.

### **16.6.5 Inventories**

Heads of Service are responsible for:

- (a) ensuring that stocks of goods and materials are held at a level appropriate to the business needs of the Council, and that stock levels are checked regularly and as a minimum as part of year end annual stocktake procedures;
- (b) ensuring that adequate arrangements are in place for their care and custody;

- (c) writing-off the value of obsolete stock in their service areas is in accordance with these procedures.

#### **16.6.6 Treasury Management**

Treasury management is an important aspect of the overall financial management of the Council. Treasury management activities are those associated with the management of the Council's cash flows and its borrowing and investments. A fundamental aim is to effectively control the risks associated with these activities and to pursue best value, in so far as that is consistent with the effective management of risk.

The Council complies with the CIPFA Treasury Management in the Public Services: Code of Practice and Cross-sectoral Guidance Notes, and has approved:

- (a) a Treasury Management Policy Statement, which sets out the policies and objectives of its treasury management activities; and
- (b) a series of treasury management practices (TMP's) which set out the manner in which the Council will seek to achieve its policies and objectives for treasury management.

The S.151 Officer is responsible for reporting to the Governance and Audit Committee, who will be responsible for reporting to Council at least three times each financial year on the activities of the treasury management operation and on the exercise of their delegated treasury management powers, including:

- (a) a proposed treasury management strategy for the coming financial year before the start of each financial year;
- (b) a mid-year report.
- (c) an annual report on the treasury management activity following the end of the financial year

All investments of money, and borrowings undertaken, on behalf of the Council will be made in the name of the Council. The S.151 Officer will maintain records of such transactions.

#### **16.6.7 Staffing**

Heads of Service will ensure the sufficiency of employee budgets and shall exercise adequate control over staffing costs including overtime, training and temporary staff.

Accurate and effective systems must be in place and the following procedures and regulations must be followed:

- (a) appointments are made in accordance with HR and payroll regulations;

- (b) appointments are in accordance with the approved establishment and grade for the post;
- (c) Payments are only authorised to bona fide employees and where there is a valid Entitlement;
- (d) costs associated with early retirements, redundancy payments and other similar events must be met from within the employee budget of the service involved unless there exists a specific corporate provision for this purpose.

#### **16.6.8 Use of Consultants**

Corporate Directors and Heads of Service must ensure that their Officers understand the distinction between employment and a contract for consultancy services. If a consultant is brought in to cover a vacant post or carry out a role similar to that of a member of staff, then it is likely that the Council will be required to treat them as employed for tax purposes and pay them via the payroll. In these circumstances the Council's recruitment policies should be applied.

Where a consultant is required to carry out a project which has a clear start and end date and is described in a brief or specification, and where the consultant will be taking on the risk and providing their own premises, equipment and insurance etc., then it is likely that the work will be governed by a contract and the consultant will be paid via the Accounts Payable system through the raising of an official order and goods receipt. In these circumstances the Procurement Procedure Rules should be applied. The insurance requirements must be clear in the documentation supporting the contract and evidence that the policy is in place should be obtained from the consultant.

Corporate Directors and Heads of Service must ensure that where payments are to be made to consultants other than through the Council's payroll system, that there is a clear justification for this and that there are no tax implications that may arise.

Corporate Directors and Heads of Service should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Human Resources Manager.

### **16.7 Financial Systems and Procedures**

The following paragraphs set out the Councils routine financial business, its transactions and procedures.

#### **16.7.1 General Responsibilities**

The S.151 Officer is responsible for:

- (a) issuing advice, guidance and procedures for officers and others acting on behalf of the Council in relation to its financial affairs;
- (b) determining the accounting system, form of accounts and supporting financial records;
- (c) establishing arrangements for the audit of the Council's financial affairs;
- (d) approving any new financial systems to be introduced;
- (e) approving any changes to existing financial systems including the format of a feeder file and system of reconciliation of any financial information being fed into the core accounting systems.

Corporate Directors and Heads of Service are responsible for:

- (a) ensuring that accounting records are properly maintained and are held securely;
- (b) maintaining a complete management trail for financial transactions;
- (c) ensuring that there is sufficient separation of duties to provide adequate internal control and minimise the risk of fraud or other malpractice;
- (d) maintaining documented and tested business continuity plans; and
- (e) documenting systems and procedures and ensuring staff are trained in operations.

### **16.7.2 Income**

The Council collects substantial amounts of income (council tax, business rates, rents, service charges and fees and charges) and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly, and that VAT is correctly accounted for.

The S.151 Officer will agree the arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection. In relation to the collection of income, the S.151 Officer and Corporate Directors will ensure that:

- (a) All money received by, or on behalf of, the Council is paid fully and promptly into the appropriate Council bank account in the form in which it is received.
- (b) Income is not used to cash personal cheques or other payments.
- (c) Appropriate details are recorded onto paying-in slips to provide an audit trail.
- (d) A record is kept of money received directly by employees of the Council.
- (e) The receiving officer signs for the transfer of funds, and the transferor must retain a copy.
- (f) Wherever possible, at least two employees are present when post is opened so that money received by post is properly identified and



recorded; this requirement must be met where post regularly contains money.

- (g) Money collected and deposited is reconciled to the appropriate bank account on a regular basis.
- (h) The responsibility for cash collection is separated from that for identifying the amount due and that responsibility for reconciling the amount due is separated from handling of the amount received.
- (i) Income is only held on premises up to levels approved by the S.151 Officer. All such income will be locked away to safeguard against loss or theft, and to ensure the security of cash handling.
- (j) All appropriate income documents are retained and stored for the defined period in accordance with the Council's Information Management policies and guidance.

### **16.7.3 Debt Recovery**

Amounts owed to the Council will be recorded by billing the customer in accordance with the Council's Income Management framework. Corporate Directors and Heads of Service will ensure that a clear framework is in place within their service areas which defines who is empowered to raise a debt on the Council's behalf. Once debts are raised, Corporate Directors and Heads of Service have a responsibility to assist the S.151 Officer in collecting the debts that they have originated by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.

### **16.7.4 Writing-off Debts**

Corporate Directors and Heads of Service will critically review outstanding debts on a regular basis, in conjunction with the Corporate Director (Support Service) and take prompt action to write off debts no longer deemed to be recoverable. No bona fide debt may be cancelled, other than by formal write off.

The Corporate Director (Support Services) shall:

- (a) authorise the write-off of individual bad debts up to £25,000 where necessary. All requests for write off must be accompanied by a brief report giving the reasons for the request and supporting documentation. The relevant Cabinet Member shall authorise the write-off of individual bad debts over £25,000 but under £50,000; Cabinet shall authorise the write-off of individual bad debts over £50,000 but under £100,000; and Council shall authorise the write-off of individual bad debts £100,000 and over;
- (b) The exception to the above authorisation requirements is that the Corporate Director (Support Services) has delegated authority to write-off debts for reason of bankruptcy, insolvency and ceased trading without limit;

- (c) ensure that a proper record of debts written-off is maintained and that proper accounting entries are made after write-off.

Chief Officers shall submit a request to write off a debt and materials surplus to a department's requirements, subject to the limits and approvals prescribed below. The Corporate Director (Support Services) shall issue procedures for the authorisation and recording of the debts to be written off.

**Table C**

		Write-off to be approved by:			
Current Limits	Head of Finance	Corporate Director (Support Services)	Cabinet Portfolio Member	Cabinet	Council
Up to £50,000	Y	Y	Y	Y	Y
Up to £100,000		Y	Y	Y	Y
Up to £150,000			Y	Y	Y
Up to £250,000				Y	Y
Over £250,000					Y

#### **16.7.5 Credit Notes**

A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, and once it is confirmed that the debt is not payable.

Credit notes will not be issued:

- (a) For irrecoverable debts, as the formal write off procedure should be followed.
- (b) Where the debtor cannot afford to pay at that time. The debt should remain, and revised payment terms agreed, as appropriate.
- (c) Where a debt is to be recovered through deductions from payments. In such instances, the deductions made should be offset against the debtor.

Credit notes will be subject to the approval of a Corporate Director or Head of Service.

#### **16.7.6 Ordering and Paying for Goods and Services**

The Council's procedures are designed to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Procurement Strategy and Procurement Procedure Rules.

Every Officer and Member must declare any links or personal interests that they may have with suppliers and/or contractors if they are engaged in

contractual or purchasing decisions on behalf of the Council, in accordance with Member Code of Conduct and HR Policies.

Purchase Orders must be raised on the eProcurement System for all works, goods and services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates and petty cash purchases.

Commitments and accruals will be automatically recorded onto the Council's Financial System through the approval of the purchase order. This ensures that the finance system gives a true picture of the amount of expenditure incurred and the balance remaining against each budget head.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

The S.151 Officer shall:

- (a) ensure that all systems for the ordering and payment of goods and services are sound and provide guidance on their administration;
- (b) determine the form of official orders and associated terms and conditions;
- (c) make payments from the Council's official funds on the authorisation of the relevant Corporate Director or Head of Service that the expenditure has been duly incurred in accordance with Financial Procedure Rules;
- (d) make payments to contractors on the certificate of the appropriate Corporate Director or Head of Service.

Corporate Directors and Heads of Service shall:

- (a) ensure the receipt of best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality and by utilising corporate purchasing arrangements where they exist;
- (b) establish and maintain sound and efficient systems for the ordering, receipt, checking and payment of goods and services in a form approved by the S.151 Officer and which incorporate, as far as possible, separation of duties between the ordering, receiving and payment process;
- (c) maintain an up-to date list of those officers authorised to authorise official orders and/or authorise payment and supply a copy of the list to the S.151 Officer. The list is to clearly show the financial limits of authority which apply to each officer together with specimen signatures and initials.
- (d) ensure that official orders are used for all goods and services except where the prior written approval of the S.151 Officer has been obtained;

- (e) Ensure that services provided, or goods received in part of fully in accordance with an official purchase order are recorded in the eProcurement system by means of entering a Goods Received Notice transaction; and
- (f) ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment.

Orders for work, goods and services must be authorised in accordance with the Procurement Procedure Rules and processes put in place as part of its financial management systems.

### **Expenditure**

Expenditure for work, goods and services must be authorised in accordance with the Council's Constitution and by someone of at least the seniority set out below:

- (a) Where the expenditure is issued to reflect a procurement decision taken by Members then the expenditure may be authorised by the officer with delegated authority;
- (b) An expenditure up to £50,000 may be authorised by the Head of Service;
- (c) An expenditure between £50,000 and £100,000 must be authorised by the relevant Corporate Director;
- (d) Where the expenditure will have effect for more than a year and/or have a value of between £100,000 and £150,000, then the expenditure must be authorised by the relevant Cabinet Member; or
- (e) In other cases, the expenditure must be authorised by Cabinet.

All spend undertaken against those schemes which have in place an annual programme of works, such as the Councils Asset Maintenance Programme, vehicle Maintenance Programme or Playground Maintenance Programme, and for which the Council have approved the annual budget allocation associated with that programme of works, do not need to obtain further approval.

#### **16.7.7 Imprest and Petty Cash Accounts**

An imprest or petty cash account must only be used where it is not appropriate to use a purchase order for the goods or services in question. It is the responsibility of Corporate Directors and Heads of Service to ensure that systems are in place to monitor and control this.

Imprest and petty cash accounts can facilitate very minor items of expenditure where it would not be cost effective to use a purchase order.

Imprest and petty cash accounts must not be used to reimburse employee expenses which will be made through Payroll.

The Council has a single petty cash account operated by Cashiers Service. There are a number of imprest holders across the Council. The establishment of and procedures for the operation of imprest accounts must be approved by the S.151 Officer

Officers must complete an official petty cash voucher to draw cash from petty cash or an imprest account. Supporting documentation must be attached including VAT receipts and the voucher should be authorised to confirm that the expenditure is reasonable and there is sufficient budget provision to cover the expenditure.

Imprest holders must reconcile their accounts on a monthly basis or prior to seeking reimbursement. Imprest holders should seek reimbursement from the main petty cash account through Cashiers Service using the standard documentation and attaching supporting information. A certificate of value must be completed once a year and the cash/receipts must be produced on demand.

Imprest accounts must never be used to cash personal cheques or to make personal loans and the only payments into the account should be the reimbursement of the float and change relating to purchases where an advance may have been made on an exceptional basis.

#### **16.7.8 Bank Accounts**

The Corporate Director (Support Services) jointly with the S.151 Officer shall maintain and operate such bank accounts as they consider necessary. No bank account may be opened or closed except on the prior approval of the Corporate Director (Support Services) jointly with the S.151 Officer The Head of Finance is responsible for managing the banking contract and the day-to-day administration and reconciliation of accounts.

Officers must not open accounts in the name of the Council, Members or Officers unless they are acting on the instructions of the Corporate Director (Support Services) jointly with the S.151 Officer Opening an unauthorised bank account is a disciplinary offence.

#### **16.7.9 Payments to Councillors and Employees**

Staff costs are the largest item of expenditure for most services. It is therefore important that payments are accurate, timely, and made only where they are due for services to the Council, and that payments accord with an individual's conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for, and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

The Corporate Director (Support Services) is responsible for all payments of salaries and wages and expenses to staff, including payments for overtime, honoraria etc. and submission of tax returns to HM Revenue and Customs by their due date for the above. The Corporate Director (Support Services) is

also responsible for the timely provision of information, and the maintenance of sound financial controls to meet the responsibilities in connection with taxation issues arising from payments to employees.

The Corporate Director (Support Services) shall:

- (a) arrange and control secure and reliable payment of salaries, wages, compensation, other emoluments, expenses and allowances;
- (b) record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions to the collecting authority;
- (c) ensure provision of accounting records of all transactions.

Corporate Directors and Heads of Service shall:

- (a) ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scales of pay and that budget provision is available;
- (b) promptly notify the Human Resources Manager of all appointments, terminations or variations which may affect the pay of an employee, in the form determined by the Human Resources Manager;
- (c) maintain an up-to date list of those officers authorised to sign records and returns relating to payments to employees and Councillors and supply a copy of the list to the Human Resources Manager and the Corporate Director (Support Services). The list is to clearly show the financial limits of authority which apply to each officer together with specimen signatures and initials;
- (d) ensure that all payments to employees and Councillors, including all casual and temporary staff, are processed only through the payroll system.

#### **16.7.10 Taxation**

The S.151 Officer is responsible for providing information to HMRC in relation to the Construction Industry Tax Deduction Scheme as required and advising Corporate Directors and Heads of Service of their responsibilities under the scheme.

Corporate Directors and Heads of Service are responsible for ensuring that the appropriate controls and procedures are operated within the service area in relation to taxation issues.

The S.151 Officer is responsible for completing the monthly return of VAT (inputs and outputs) to HMRC.

#### **16.7.11 Trading Accounts and Business Units**

In some areas the Council may operate a trading account. This means that the costs and income from charges relating to the service are ring-fenced in

the accounts. Any surplus or deficit is added to a reserve each year. The S.151 Officer is responsible for ensuring that trading accounts are treated properly in the Council's accounts.

Corporate Directors and Heads of Service are responsible for ensuring that, in line with the Local Government Act 2003, charges are set to recover costs without building up significant surpluses, and that any changes in take up of the service which could result in a deficit are reported at an early stage. All charges must be reviewed on a regular basis and annually as a minimum as part of integrated service and financial planning.

The S.151 Officer shall determine the need for the establishment and operation of trading accounts and business units.

#### **16.7.12 Retention of Documents**

Corporate Directors and Heads of Service shall be responsible for ensuring that records are carefully and systematically filed and retained for inspection by the Monitoring Officer, S.151 Officer or internal or external audit and agencies such as HM Revenue and Customs.

The advised minimum periods for the retention of financial records are set out below:

- (a) mortgages, bonds, stocks and other holdings, insurance, contracts, pension information and transfer values should be held indefinitely;
- (b) other contract documents including the final account where the contract is under seal should be retained for 12 years; and
- (c) The majority of accounting records should be retained for a period of 6 years following audit.

### **16.8 Partnerships and External Funding**

Partnerships are likely to play a key role in delivering community strategies and helping to promote and improve the wellbeing of the area.

#### **16.8.1 Partnerships**

The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of the District.

The Cabinet is responsible for approving delegations, including frameworks for partnerships.

The S.151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are proper. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that

the risks have been fully appraised before agreements are entered into with external bodies.

Corporate Directors and Heads of Service must ensure that the full implications of any partnership are explored, and that Finance and Legal officers are consulted at an early stage. The issues to be addressed include:

- (a) Is a partnership the best vehicle for achieving the desired outcome?
- (b) What are the objectives of the partnership and are they consistent with the Council's priorities?
- (c) What is the legal status of the partnership and how will it be governed?
- (d) What is the liability of the Council and the other partners?
- (e) Are the roles and responsibilities clear?
- (f) What are the risks and how will they be managed and monitored?
- (g) How will the performance of the partnership be monitored and how will success be measured?
- (h) How will the partnership be funded and who is responsible for the financial management, accounts and audit arrangements?
- (i) Are there any taxation issues?
- (j) Is there a robust business case?
- (k) How will goods and services required by the partnership be procured?
- (l) What are the resource implications in terms of staff, premises etc.?

Corporate Directors and Heads of Service are responsible for securing all appropriate approvals before any commitment or agreement is entered into.

A partnership arrangement must not be used as a means of avoiding the procurement rules.

### **16.8.2 External Funding**

The Council bids for funds from a number of UK and European programmes. Each funding regime is subject to rules and regulations and the process for submitting applications and drawing down funding varies.

It is important to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Council are clearly understood. Corporate Directors and Heads of Service should:

- (a) ensure that all applications for funding are consistent with the Council's priorities and approve them in principle before detailed work commences;
- (b) ensure that the Council's project management framework is applied and that a project initiation document (PID) is completed where appropriate;



- (c) consult with Financial Services when preparing applications to ensure that full costs are identified including any match funding required, and ongoing commitments are taken into account;
- (d) ensure that the application is signed off by the S.151 Officer or an appropriate Officer in the Service;
- (e) where applications are successful, ensure that the expenditure and income budgets are amended as necessary;
- (f) Where third party funding is received, all decisions relating to its expenditure shall be taken in accordance with the expenditure thresholds set out in these Financial Procedure Rules and the Constitution,
- (g) ensure that the rules and regulations for the particular funding stream are complied with at application stage and throughout the life of the project;
- (h) ensure that all requirements relating to the delivery of outputs and spend are met in line with the approved bid or project plan;
- (i) ensure that all funding notified by external bodies is claimed, received and properly recorded in the Council 's accounts; and
- (j) check the audit requirements and notify the S.151 Officer of any claims that must be audited by the Council's external auditor.

### **16.8.3 Work for Third Parties**

Corporate Directors and Heads of Service must ensure that work undertaken for third parties is approved in accordance with the financial limits imposed for expenditure and is covered by a suitable contract or agreement so that the responsibilities of each party are clear.

Financial and legal advice should be sought at an early stage. This will ensure that the Council only carries out work that is within its legal powers, and that financial issues such as insurance and taxation are properly considered.

Corporate Directors and Heads of Service must ensure that:

- (a) the Council is not put at unnecessary risk from bad debts
- (b) contracts are not subsidised by the Council

Corporate Directors and Heads of Service must provide appropriate information to the S.151 Officer to enable a note to be entered into the Statement of Accounts where necessary.

## **17. Overview and Scrutiny Procedure Rules**

### **17.1 Introduction**

Overview and Scrutiny arrangements play an important role in securing the efficient delivery of public services and drives improvements within the Council. Through the legislative powers the Scrutiny Committees are responsible for scrutinising decisions the Cabinet is planning to take and those that it has already taken, thereby holding the Cabinet to account for its decisions and its actions. The Scrutiny Committees carry out the scrutiny function on behalf of the Council.

### **17.2 The Scrutiny Arrangements**

The Council will have in place the Scrutiny arrangements as set out in Article 9 of this Constitution. The Scrutiny Committees may appoint sub-committees usually known as Task and Finish Groups, and establish their membership, reference to the Scrutiny Committee will (unless otherwise stated) include reference to the Task and Finish Group. The Scrutiny Committee may be appointed for a fixed period or to undertake a specific task, on the expiry of which they shall cease to exist.

### **17.3 Meetings of the Scrutiny Committees**

In addition to the Ordinary meetings scheduled at the start of the municipal year, Extraordinary meetings may be called from time to time as and when appropriate. Extraordinary meetings may be called by:

- (a) the Chairmen of the relevant Scrutiny Committee;
- (b) any 5 members of the relevant Scrutiny Committee or
- (c) the proper officer if they consider it necessary or appropriate.

### **17.4 Membership**

All Members are eligible to be members of a Scrutiny Committee, subject to the number of places available and the political proportionality rules.

- No Member may be involved in scrutinising a decision in which they have been directly involved in making.
- Cabinet Members are not entitled to be a member of a Scrutiny Committee or its Task and Finish Group.
- A Deputy Cabinet Member may not be involved in scrutinising a decision undertaken by that Cabinet Member.
- The Task and Finish Group may consist of any Councillors of the Council, subject to paragraph 17.4, who are not a member of the

Scrutiny Committee and will hold voting rights on any question which falls to be determined at the meeting of the Task and Finish Group.

Substitutes will be permitted provided they are in accordance with the provisions set out above and the Council Procedure Rules and should wherever possible be named for the duration of the review being undertaken by the Scrutiny Committee.

### **17.5 Co-opted Members**

The Scrutiny Committees shall be entitled to recommend to the Council the appointment of additional third-party individuals who are not Members of the Council, as a result of their expertise they will bring to the Scrutiny Committee in the consideration of their review. Such individuals will be known as 'Co-opted Members' and will be entitled to participate in the review but will not hold voting rights on any question which falls to be determined at a meeting of the Scrutiny Committee.

### **17.6 Chairman**

The Chairman of each of the Scrutiny Committees will be appointed at the Annual Meeting of the Council.

The Chairman of the Corporate Scrutiny Committee should not be a member of the Majority Group, unless there are no such other persons available.

The vice-Chairman shall be selected from the Scrutiny Committee membership.

### **17.7 Work programme**

The Scrutiny Committees will be responsible for setting their own work programme which exercises the functions as conferred by section 21 of the Local Government Act 2000 and set out in Article 9 of this Constitution.

In doing so they shall review the suggestions provided as part of the annual call for topics and will take into account the views of the Chief Officers.

The work programme shall be considered by the Scrutiny Chairman Committee in order to coordinate the work undertaken by each of the Scrutiny Committees. They may consult Group Leaders, the Cabinet, any Member and any other person or group they consider relevant to inform their considerations.

### **17.8 Agenda Items**

Any member of the Scrutiny Committee shall be entitled to give notice to the Head of Governance that they wish an item relevant to the functions of the Scrutiny Committee to be included on the agenda for the next available meeting of the Scrutiny Committee. Where such a request has been

received on later than midday seven working days before the meeting the Head of Governance will ensure that it is included on the next available agenda. Otherwise, the item will be included in the next agenda of the Scrutiny Committee.

## **17.9 Order of Business**

In addition to the provisions stipulated in the Council Procedure Rules at paragraph 12.26, the Scrutiny Committees shall also consider the following business:

- (a) consideration of any matter referred to it for a decision in relation to call in of a decision;
- (b) responses of the Cabinet to reports of the Scrutiny Committee; and
- (c) any other business as set out on the agenda for the meeting.

## **17.10 Policy Review and Development**

The role of the Corporate Scrutiny Committee in relation to the development of the Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, the Scrutiny Committees may make recommendations or act as a consultee for the Cabinet for developments in so far as they relate to matters within their terms of reference.

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

Where the Scrutiny Committees conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- (a) that the investigations be conducted fairly and all members of the Scrutiny Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

Following any investigation or review, the Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

### **17.11 Reports from the Scrutiny Committees**

Once it has formed recommendations, the Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet.

The Cabinet shall consider the report from the Scrutiny Committee at the next meeting of Cabinet for which the agenda has not yet been published.

The Cabinet will normally consider the Report within two months of it being submitted to Cabinet. However, the Leader and the Chairman of the Scrutiny Committee may agree a longer period.

Having considered the Report, Cabinet will provide a response. That response will be reported to Council, together with the original Scrutiny Committees Report, setting out details of Cabinets considerations, and set out any recommendations to the Council, including recommendations for a departure from or a change to the agreed Budget and Policy Framework.

If a Scrutiny Committee cannot agree on one single final report to Cabinet, then up to one minority report may be prepared and submitted for consideration by Cabinet with the majority report.

### **17.12 Rights of Scrutiny Committee Members to documents**

In addition to their rights as Councillors, members of the Scrutiny Committees in fulfilling their functions have additional rights to documents as set out in the Access to Information Procedure Rules.

Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Committees as appropriate depending on the particular matter under consideration.

### **17.13 Members and Officers Giving Account**

The Scrutiny Committees may require any Cabinet Member, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit: any particular decision or series of decisions; and the extent to which the actions taken implement Council policy. It is the duty of those persons to attend if so required.

Where any Cabinet Member or Officer is required to attend a Scrutiny Committee under this provision, the Chairman will inform the proper officer. The proper officer shall inform the Cabinet Member or officer in writing giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required

to attend to give account and whether any papers are required to be produced for Scrutiny Committees consideration. Where the account to be given to Scrutiny Committee will require the production of a report, then the Cabinet Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Cabinet Member or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Cabinet Member or Officer to arrange an alternative date for attendance to take as soon as reasonably practicable.

#### **17.14 Attendance by Others**

The Scrutiny Committees may invite people other than those people referred to in paragraph 17.13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by those invited under this provision is entirely optional but encouraged in the spirit of partnership working and community engagement.

#### **17.15 Call In**

When a Key Decision is made by:

- (a) the Cabinet,
- (b) a Cabinet Member
- (c) a committee of the Cabinet,
- (d) an officer with delegated authority from the Cabinet, or
- (e) under joint arrangements,

the decision shall be published on the Councils website and shall be made available at the main offices (Causeway House) of the Council normally within 3 working days of being made. Copies of all such decisions will be made available to all Councillors within the same timescale, by the person responsible for publishing the decision.

The notice publishing the decision shall bear the date on which it is published and will specify the date that the decision will come into force and may then be implemented on the expiry of five working days after the publication of the decision, unless the decision is called-in.

A decision taken, may be called in to the Scrutiny Committee whose remit includes the subject matter of the decision.

Individual decisions taken by Non-Executive Committees (Planning, Licensing, Standards and Audit Committees) cannot be the subject of call-in.

Any decision can only be called-in once.

A decision may be called in by:

- (a) the Chairman of the relevant Scrutiny Committee; or
- (b) any five non-cabinet Councillors.

All valid call-in notices will be referred to the relevant Scrutiny Committee for determination and the decision maker will be notified of the call-in.

The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the relevant Scrutiny Committee.

The Chairman of the relevant Scrutiny Committee is under an obligation to ensure that the meeting is held within the 10 working days. If the relevant Scrutiny Committee does not meet the required period, the decision shall take effect on the expiry of the 10-working day period.

If the relevant Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made, then it will be deemed to be pre-determined on the matter and the call-in will be considered by another Scrutiny Committee.

#### **17.16 Call In Procedure**

A notice of Call In must be made direct to the Head of Governance and must be received within five working days of the date of publication of the decision. The Call In notice must set out the details of the decision being called in and state clearly the reasons why the decision needs to be scrutinised based on one or more of the following seven assessment criteria:

- (a) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures;
- (b) The decision is contrary to the Council's Budget and Policy Framework;
- (c) The decision is not consistent with Council policy;
- (d) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable;
- (e) The decision is contrary to a previously agreed decision made by the Council, which has not been superseded by a subsequent decision;
- (f) The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision; or
- (g) The decision was not taken in accordance with the principles set out in Article 7 (Decision-Making) of the Constitution.

On receipt of the notice for call-in, the Scrutiny Officer will:

- (a) acknowledge receipt of the Notice;

- (b) Notify the decision maker in writing of the Call-in; and
- (c) Notify the Chairman of the relevant Scrutiny Committee.

The Head of Governance shall call a meeting of the relevant Scrutiny Committee on such date as they may determine, where possible after consultation with the Chairman of the Scrutiny Committee, and in any case within 10 working days of request to call-in.

### **17.17 Informal Meeting**

Prior to the meeting of the Scrutiny Committee arranged under 17.10 above, the Chairman of the Scrutiny Committee may, in agreement with those calling the decision in, call an informal meeting to be attended by the Chairman of the Scrutiny Committee, the Members calling in the decision, and the Decision Maker. The purpose of that meeting will be to discuss the issues and to see if the matter can be resolved.

The Scrutiny Officer will attend the informal meeting and will within 24 hours produce a note of the discussion and the outcome, for circulation to all parties for approval.

Once the note and the outcomes have been agreed, by all parties then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution. A report of any call ins that are dealt with by way of an informal meeting will be included on the Agenda for the next meeting of the Scrutiny Committee.

### **17.18 Meeting of the Scrutiny Committee**

If the Call In is not withdrawn as a result of the informal meeting, or an informal meeting is not held, the call in will be presented to the Scrutiny Committee for consideration, The Scrutiny Committee will meet within 10 working days of the notice of call-in. Wherever possible scheduled meetings of the Scrutiny Committee will be used. Where this is not possible the Scrutiny Officer will liaise with the parties concerned and arrange a special meeting.

At the meeting to consider the call-in notice, the Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.

The meeting shall be conducted in the following way:

- (a) The Members requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
- (b) the decision-maker shall establish the reasons behind the decision;
- (c) Questions can be asked by:
  - (i) Those calling in the decision;
  - (ii) The relevant Cabinet Member or relevant Officer; and
  - (iii) The Scrutiny Committee.

All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter.



Both those calling in the decision and the decision maker are permitted to stay at the meeting whilst the Scrutiny Committee debates and decides what action to take at the discretion of the relevant Scrutiny Committee Chairman.

However, they will not be able to participate in the general debate. The Chairman may allow them to answer questions or points of clarification arising through the debate.

### **17.19 Decisions referred back to the Decision Maker**

On considering the matter, the Scrutiny Committee will decide whether or not to ask the decision-maker to reconsider its decision.

If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Scrutiny Committee considers the executive decision is contrary to the Budget and Policy Framework; the Scrutiny Committee may refer the matter to the next practicable meeting of the Council.

If the relevant Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 10 working days following the meeting of the relevant Scrutiny Committee, unless the decision maker was an Officer in which case it will be referred back to the Leader or relevant Cabinet Member for consideration. In that circumstance the Leader or relevant Cabinet Member shall be required to reconsider the decision within 10 working days.

If the Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and shall take effect at the conclusion of the meeting of the Scrutiny Committee.

If the matter is referred to Council, who do not object to the decision the subject of call-in, no further action is necessary, and the decision will be effective on the date of the Council meeting. If Council does object to the decision the subject of call-in, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision.

The decision-maker shall, within a further 10 working days, choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet or a committee of it, the next meeting of the Cabinet will consider the request of the Council. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before

determining what action should be taken.

If the Council does not meet, or if it does but does not refer the Key Decision back to the decision-making body or person, the Key Decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## **17.20 Exceptions to Call In**

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

### **Urgent Decisions**

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chairman of the Corporate Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency in accordance with the provision of this Constitution.

### **Other Exceptions**

The following will not be subject to Call-in:

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to an Scrutiny Committee for comment.
- (b) Recommendations from Cabinet to Council.
- (c) Decisions by the Cabinet where the issue has been referred to them by the Council or an Scrutiny Committee for their view or comment
- (d) Non key Decisions

Unless the decision has taken into account new material considerations arising since the original consultation with the Council or a Scrutiny Committee, a decision by the Cabinet in response to such consultation shall not be subject to call-in.

Where the Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of paragraph 17.22 above. In such circumstances the Chairman of the relevant Scrutiny Committee, or Vice-Chairman so authorised to act in their absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 1 of this Constitution and a report submitted to Council with proposals for review if necessary.

## **18. Officer Employment Procedure Rules**

These Rules are subject to and must be read in accordance with the provisions of The Local Authorities (Standing Orders) (England) Regulations 2001.

### **18.1 Recruitment and Appointment**

#### **Declarations**

The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons; or if they are related in any other way to such persons.

No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.

A candidate who fails to disclose a relationship as set out in paragraph 18.1 above may be disqualified for the appointment and, if appointed, may be liable to dismissal without notice.

#### **Seeking support for appointment**

Subject to providing a written reference as set out below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

Subject to providing a written reference as set out below, no Councillors will seek support for any person for any appointment with the Council.

Nothing in paragraphs 18.1 will preclude a Councillor from giving a written reference for an applicant for submission with an application for appointment.

### **18.2 Recruitment of Head of Paid Service and Chief Officer**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

- (a) Draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed.
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

- (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.

Where a post has been advertised as set out in paragraph 18.2, the Council shall:

- (a) interview all qualified applicants for the posts, or
- (b) select a shortlist of such qualified applicants and interview those included on the shortlist; or
- (c) where no qualified person has applied, the Council shall make further arrangements for the advertisement in accordance with 18.2(b).

### **18.3 Appointment of Head of Paid Service, Monitoring Officer and Chief Financial Officer**

Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of a Committee of the Council established for the purposes of that recruitment.

That Committee must include as a minimum, the Leader, one Member of the Cabinet and the Chairman of the Corporate Scrutiny Committee.

Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any Member of the Cabinet.

### **18.4 Appointment of Corporate Directors**

The Committee of Council appointed for this purpose will appoint the Corporate Directors, as defined in this Constitution.

That Committee must include as a minimum, the Leader, one Member of the Cabinet and the Chairman of the Corporate Scrutiny Committee.

An offer of appointment to a Corporate Director shall be made only where no valid well-founded objection from any Member of the Cabinet has been received.

### **18.5 Other Appointments at Tier 3**

The appointment of Officers at Tier 3, i.e. those directly reporting to a Corporate Director, is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

The appointment of an assistant to a political group in pursuant to section 9 of the Local Government and Housing Act 1989 shall be made in accordance with the wishes of that political group.

## **18.6 Notification of Appointments**

No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Corporate Director until:

- (a) The Chairman of the Committee established for the purpose of the recruitment to that post (on behalf of the Committee) has notified the Head of HR or their Deputy, of the name of the person to whom the post is to be offered and any other matter relevant to the appointment.
- (b) The proper officer has notified every Member of the Cabinet of the name and of the person to whom the post is to be offered and any other matter relevant to the appointment.

The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in paragraph 18.6(b).

An offer of appointment may be made if:

- (a) The Leader of the Council has notified the proper officer within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment.
- (b) The proper officer has notified the Committee that they have not received any objection in the period specified in paragraph 18.6.
- (c) The Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

## **18.7 Disciplinary Action**

### **Statutory Officers**

The Statutory Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and shall be for no longer than 6 months.

In the following paragraphs:

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the Councils paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;

- (e) “the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
- (f) “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or Councils as the Council considers appropriate
- (g) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (h) “relevant officer” means the chief finance officer, head of the Council’s paid service or monitoring officer, as the case may be.

A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

Subject to paragraph 18.6, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 18.4 in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the Council;
- (c) a relevant independent person who has been appointed by another Council or Council’s.

The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 18.4 but may do so.

The Council must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

With regards to disciplinary issues in connection with the Statutory Officers, the panel can only make a recommendation for dismissal. In instances where

its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules. The panel together with the Independent Persons must refer its recommendation to Full Council.

Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.

### **Corporate Directors**

The Committee established by the Council for this purpose shall deal with disciplinary issues in connection with the Corporate Director and any assistant to political groups and resolve any action which it considers appropriate.

The Corporate Directors may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not and shall be for no longer than 6 months.

### **Other Officers**

Members will not be involved in the disciplinary action or dismissal against any other officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply.





## **Chapter 3**

### **The Codes and Schemes**



## **19. Member Code of Conduct**

### **19.1 General Provisions**

As a Member you are a representative of this Council, and the public will view you as such therefore your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council.

This Code as a whole is consistent with “Nolan Principles” which are set out in s29(1) Localism Act 2011 and are as follows:

#### **Selflessness**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person.

#### **Integrity**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### **Objectivity**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

#### **Accountability**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

#### **Openness**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

#### **Honesty**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

#### **Leadership**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

In this Code-

- (a) “meeting” means any meeting of:
  - (i) the Council;
  - (ii) the Executive of the Council (Cabinet);

- (iii) any of the Council's or its Executive's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members; or
  - (iv) any briefings by Officers and site visits organised by the Council.
- (b) "relevant period" means the period of 12 months ending with the day on which you give notification to the Monitoring Officer of any disclosable pecuniary interests you had at the time of the notification.
  - (c) "profit or gain" includes any payments or benefits in kind which are subject to Income Tax.
  - (d) "beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.
  - (e) "Member" includes a co-opted member.

## **19.2 Who does the Code apply to?**

This Code applies to all Members of the Council including Co-Opted Members.

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

## **19.3 What does the Code apply to?**

You must comply with this Code whenever you:

- (a) Conduct the business of the Council, or
- (b) You are acting as a representative of the Council.

This Code has effect in relation to your conduct in your official capacity.

## **19.4 Where you act as a representative of the Council**

On another relevant Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct; or

On any other body, you must, when acting for that other body, comply with the Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **19.5 General obligations**

- (a) You must treat others with respect.
- (b) You must uphold the law.

- (c) You must not –
- (i) Do anything which may cause the Council to breach any of the equality enactments;
  - (ii) Bully any person;
  - (iii) Intimidate or attempt to intimidate any person who is or is likely to be:
    - 1. a complainant;
    - 2. a witness; or
    - 3. involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Council's code of conduct; or
    - 4. Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

## **19.6 Confidential Information**

You must not 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:

- (a) You have the consent of a person authorised to give it;
- (b) You are required by law to do so;
- (c) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) The disclosure is, reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the Council;

You must not prevent another person from gaining access to information to which that person is entitled by law.

## **19.7 Conferring an Advantage or Disadvantage**

You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

You must when using or authorising the use by others of the resources of the Council, act in accordance with the Council's reasonable requirements and ensure that such resources are not used improperly for political purposes (including party political purposes);

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

## 19.8 Members Interests

### Disclosable Pecuniary Interests

You have a Disclosable Pecuniary Interest (DPI)<sup>1</sup> in any business of the Council if it is of a description set out below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as “Relevant Persons”).

A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your 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) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Council or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Council's area
- (e) A licence of any land in the Council's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f) Any tenancy where to your knowledge:
  - (i) the landlord is the Council and
  - (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g) 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 Council and either:
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

## 19.9 Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Council where it

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011 and take precedence over this definition.

relates to or is likely to affect:

- (a) Any person or body who employs or has appointed you;
- (b) Any contract for goods, services or works made between the Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 19.8 (g)(ii) which has been fully discharged within the last 12 months;

### **19.10 Non-Pecuniary Interests**

You have a non-pecuniary interest in any business of the Council where it relates to or is likely to affect -

- (a) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (b) Any body of which you are a member or in a position of general control or management
  - (i) functions of a public nature; or
  - (ii) Directed to charitable purposes; or
  - (iii) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (c) The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) A decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of:-
  - (i) (In the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (In all other cases) other council tax payers, ratepayers or inhabitants of the Council's area.

### **19.11 Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

Subject to paragraphs below, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Council and you are present at a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

This section only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.

Where you have an interest in any business of the Council which would be disclosable by virtue of paragraph 19.11 but by virtue of paragraph 19.14 (Sensitive Information) details of the interest are not registered in the Council's published

Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.

Where you have a Pecuniary Interest in any business of the Council which would be Disclosable by virtue of paragraph 19.11 and a function of the Council may be discharged by you acting alone in relation to that business, you must ensure you notify the Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.

Where you have an interest in any business of the Council which would be disclosable by virtue of paragraph 19.11 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. In this paragraph "executive decision" is to be construed in accordance with any Regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

## **19.12 Effect of Interests on Participation**

### **Disclosable Pecuniary Interests**

If you are present at a meeting of the Council or of 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 and you are aware of that Interest:

You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting unless you have received a dispensation from the Council's proper officer.

You must withdraw from the room or chamber where the meeting considering the business is being held.

If you have a Disclosable Pecuniary Interest in any business of the Council, you must not exercise executive functions in relation to that business; or seek improperly to influence a decision about that business.

If a function of the Council may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function, you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

### **Other Pecuniary Interests**

If you have an other Pecuniary Interest in any business of the Council 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 in the public interest and you are present at a meeting of the Council at which such business is to be considered or is being considered you must disclose the existence and nature of the



interest in accordance with paragraph 19.11 and; Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Council's proper officer.

### **Non-Pecuniary Interests**

After having declared an interest in accordance with paragraph 19.11 you may then participate and vote unless: a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement; or your interest may give rise to a perception of conflict of interest or bias, in which case you must withdraw.

## **19.13 Register of Members Interests**

### **Registration of Members' Interests**

Subject to paragraph 19.14, you must, within 28 days of this Code being adopted by or applied to the Council; or your Election, Re-Election or Appointment or Re-Appointment to Office (where that is later), or co-opted onto the Council register in the Council's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (a) Disclosable Pecuniary Interests as referred to in paragraph 19.8 that you or a Relevant Person has in so far as you are aware of their interests at that time;
- (b) Other Pecuniary Interests referred to in paragraph 19.9 that you have;
- (c) Non-pecuniary interests referred to in paragraph 19.10 that you have.

You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in 13.1 above within 28 days of the change occurring or becoming aware of the change.

## **19.14 Sensitive Information**

Where you have a Disclosable Pecuniary Interest referred to in paragraph 19.8 or Other Pecuniary Interest referred to in paragraph 19.9 and the nature of the interest is such that you and the Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Council's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify the Monitoring Officer.

In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a

person who lives with you may be subject to violence or intimidation.

### **19.15 Register of Gifts and Hospitality**

You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Council.

The Monitoring Officer will place your notification on a public register of gifts and hospitality.

This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Council for this purpose.

## 20. Member Allowance Scheme

### 20.1 Scheme and Commencement

This Members' Allowances Scheme is set further to the Local Authorities (Members' Allowances) (England) Regulations 2003 (the Regulations) and takes effect from the 25 March 2019 and supersedes previous schemes.

The scheme will continue until reviewed, either in accordance with the terms of the scheme or by way of amendment by Council.

This Scheme may be amended at any time by the Council but may only be revoked with effect from the beginning of a Civic Year.

This scheme shall be reviewed annually, and any amendments must have regard to any recommendations of the Independent Remuneration Panel made as part of their report.

The Independent Remuneration Panel shall convene at least every four years for consideration of the scheme and submission of its recommendations to Council.

### 20.2 Basic Allowance

With effect from 25 April 2022, all Councillors will be entitled to receive a Basic Allowance of £5,154.00 per annum, subject to the provisions of this Scheme.

### 20.3 Special Responsibility Allowance

A Special Responsibility Allowance shall be paid to those Councillors who hold positions with additional special responsibilities as specified in Table 1 and is paid in recognition of the extra duties which the Member is expected to perform. The amount of the Special Responsibility Allowance payable will vary according to the position held, the duties undertaken, and the level of responsibility involved.

Subject to Paragraph 20.6, the amount of each such Special Responsibilities Allowances are set out in Table 1.

Councillors are not able to claim more than one Special Responsibility Allowance and are only entitled to whichever is highest.

**Table 1:**

Special Responsibility	X Basic Allowance	Additional Allowance
<b>All Members Basic Allowance (April 2022)</b>		<b>£5,154.00</b>
<b>Council</b>		
Chairman of the Council	X 1	£5,154.00
Vice Chairman of the Council	X 0.5	£2,577.00
Leader of the Council	X 3	£15,462.00
Deputy Leader of the Council	X 2.5	£12,885.00
<b>Cabinet</b>		
Member of the Cabinet	X 2	£10,308.00

Deputy Cabinet Members	X 1	£5,154.00
Cabinet Support Member	X 0.75	£3,867.00
<b>Committees</b>		
<b>Planning Committee</b>		
Chairman of the Planning Committee	X 1.75	£9,021.00
Vice-Chairman of the Planning Committee	X 0.875	£4,512.00
Minor SRA to all Members of the Planning Committee (excl. Chairman and Vice-Chairman) at least 75% of called meetings of the committee	X 0.25	£1,290.00
Substitutes – paid per meeting attended		£50.00
<b>Local Plan Sub-Committee</b>		
Chairman of the Local Plan Sub-Committee	X 1	£5,154.00
<b>Licensing</b>		
Chairman of the Licensing Committee	X 1	£5,154.00
Vice-Chairman of the Licensing Committee	X 0.5	£2,577.00
<b>Scrutiny Committees</b>		
Chairman of Corporate Scrutiny Committee	X 1.5	£7,731.00
Vice-Chairman of Corporate Scrutiny Committee	X 0.75	£3,867.00
Chairman of Governance and Audit Committee	X 1	£5,154.00
Vice-Chairman of Governance and Audit Committee	X 0.5	£2,577.00
Chairman of Corporate Policy Committee	X 1	£5,154.00
Vice-Chairman of the Corporate Policy Committee	X 0.5	£2,577.00
<b>Others</b>		
Leader of the Largest Opposition Group	X 1	£5,154.00
Leader of Other Opposition Groups of more than 5 members (Note no SRA is payable to Leaders of groups of less than 5 Members)	X 0.25	£1,290.00

#### 20.4 Communications Allowance

All Members (excluding Members with a Council provided device) shall be entitled to a fixed sum of £40 per month to support their communication costs, including the cost of providing computer equipment.

A Councillor can by agreement with the Head of Governance claim in advance up to two years of this element of the allowance in a single lump sum to support capital purchases, provided that the Councillor agrees to repay any overpayment if they cease to be a Councillor.

#### 20.5 Member Development Allowance

All Members are entitled to receive a Member Development Allowance up to £400 per year, payable at the end of the Civic Year. Payment of the Member Development Allowance is directly linked to Member's actual attendance at Member Development Evening Programme events on a percentage threshold. The table below sets out the qualifying attendance and the amount payable.

<b>% annual attendance</b>	<b>Less than 10%</b>	<b>Over 10%</b>	<b>Over 25%</b>	<b>Over 50%</b>	<b>Over 75%</b>
<b>% of Allowance</b>	0%	25%	50%	75%	100%
<b>Value of Allowance</b>	£0	£100	£200	£300	£400

Attendance will be reviewed based on attendance of the Councillor at all relevant Member Development Evening Programme Events that take place within the financial year, with any payment due being made in the March of that financial year.

Absences on long term medical grounds or other accepted exceptional circumstances or required attendance at a meeting of an outside body (as appointed by Council or Cabinet only) on the same date as a training session may be approved in advance of the meeting by the Monitoring Officer as a permitted absence.

## **20.6 Renunciation**

A Councillor may, by notice in writing to the Head of Governance, elect to forego any part of their entitlement to any allowance under this Scheme.

## **20.7 Increases in Entitlements**

The Basic Allowance and the Special Responsibility Allowances shall be increased in line with the Local Government Staff Annual Pay Award, and in line with its provisions as to payment.

## **20.8 Part-year Entitlements**

The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances where, in the course of a year, this Scheme is amended, or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

In respect of a Basic Allowance, where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a civic year, the entitlement shall be proportioned to the number of days during which the term of office as a Councillor bears to the number of days in that civic year, taken together with the Member Development Link in the same relative proportions.

Where a Councillor has during part of, but not throughout, a whole year such special responsibilities as entitle them to a Special Responsibility Allowance, that Councillor's entitlement shall be proportioned as the number of days during which they held the special responsibilities, and which bears to the number of days in that civic year.

Where an amendment to this Scheme is made which affects an allowance payable

for the civic year in which an amendment is made, the entitlement to such allowance, as amended, may apply with effect from the beginning of the civic year in which the amendment is made.

## **20.9 Claims and Payments**

Any and all claims for travelling expense reimbursement and/or subsistence payment under this Scheme shall be made via the Council's online payroll system not later than two months following the date of the approved duty in respect of which the entitlement to the payment arises.

Except, where the approved duty is undertaken in March in any year then all claims shall be submitted no later than the following 1st May. No reimbursement or payment under this Scheme shall be made where these time limits have not been complied with unless there are extenuating circumstances.

A claim for travelling expense reimbursement and/or subsistence payment under this Scheme shall include, or be accompanied by, a statement by the Councillor claiming the payment, that they are not entitled to receive remuneration in respect of the matter to which the claim relates otherwise than under this Scheme.

Payments shall be made by bank transfer on the twentieth day in each month or before twentieth day in the event if it falls at a weekend/bank holiday.

Basic, Special Responsibility and Communication Allowances are paid in twelve equal instalments and apportioned for part-year entitlement where applicable.

Allowances and claims will be taxed according to the prevailing taxation rules including for PAYE and National Insurance. Councillors are responsible for meeting any tax liabilities which relate to their circumstances.

## **20.10 Membership of another Council**

Where a Councillor is also a Member of another Council, that Councillor may not claim expenses from more than one Council in respect of the same duties.

## **20.11 Childcare Allowance**

The Council has agreed that a Childcare Allowance shall be paid.

An Allowance may be claimed for costs incurred when a carer for a child has been engaged to enable a Councillor to undertake an approved duty. The actual cost of care will be reimbursed up to a maximum of £10 per hour provided that no Councillor may claim for more than two meetings per week up to a maximum of 8 hours.

An Allowance will be payable in respect of any child being cared for who normally lives with the Councillor as part of that Councillor's family and who should not be left unsupervised.

The carer must not be an immediate member of the Councillor's family or be someone who normally lives with the Councillor as part of that Councillor's family.

Councillors who claim a Childcare Allowance are required to certify that the amounts claimed have actually been incurred and that neither the Councillor nor the person being cared for has received an allowance for care from any other source.

### **20.12 Dependent Carer's Allowance**

The Council has agreed that a Dependent Carer's Allowance shall be paid.

An Allowance may be claimed for costs incurred when a carer for a dependent person has been engaged to enable a Councillor to undertake an approved duty. The actual cost of care will be reimbursed at a reasonable cost of provision in the circumstances provided that no Councillor may claim for more than two meetings per week up to a maximum of 8 hours.

An allowance will be payable in respect of any dependent being cared for who normally lives with the Councillor as part of that Councillor's family and who should not be left unsupervised.

The carer must not be an immediate member of the Councillor's family or be someone who normally lives with the Councillor as part of that Councillor's family.

Members who claim a Dependent Carer's Allowance are required to certify that the amounts claimed have actually been incurred and that neither the Councillor nor the person being cared for has received an allowance for care from any other source.

### **20.13 Travelling Expenses/Subsistence Allowance Claims**

For travelling expense reimbursement and subsistence allowance purposes, any claim for payment must be in respect of the previous undertaking of an Approved Duty as set out in in paragraph 20.14.

Expenditure must have been incurred in the performance of duties that were designated as approved before the duty was performed.

Any claim will be paid for actual expenditure up to the limits set out in this scheme. Any sum expended over this is not recoverable. Receipts must be submitted for all expenditure, including any parking, tolls or other fees.

When booking public transport where any low cost or reduced travel fare is available, it must be used. Standard class accommodation should be used.

Councillors would not normally be expected to use their own vehicles for journeys outside the District boundary unless it can be demonstrated that the cost to the Council would be less than travel by train, e.g., where a number of Councillors are going to the same destination and will be travelling in the same car. There may also be cases where it would be more practical to use a Councillor's own vehicle. In such cases a claim may be made equivalent to the cost of the most economic method of travel.

Where Councillors and Officers are travelling to the same destination the least number of cars necessary to safely undertake the journey shall be used. Where any one or more of the officers has a lease car then a lease car must be used for the journey. Where this is not the case, but an Officer has a car purchased with the benefit of a loan from the Council then this car must be used. If there is no lease car or car purchased with the benefit of a loan available, then agreement shall be reached between all those travelling as to the car which will be used.

Any penalty charges for failure to pay for sufficient parking, tolls or other charges are the responsibility of the Councillor and may not be claimed for.

## **20.14 Approved Duties**

- (a) The attendance at a meeting of the Council, or of any Committee or Sub-Committee of the Council, or of any other body to which the Council makes appointments or nominations and for which the Councillor making the claim is the appointed nominee, or any Committee or Sub-Committee of such a body.
- (b) The attendance at any other meeting, the holding of which is authorised by the Council, or a Committee or Sub-Committee of the Council, or a Joint Committee of the Council and one or more Authorities within the meaning of Section 270(1) of the Local Government Act 1972, or a Sub-Committee of such a Joint Committee provided that:-
  - (i) Where the Council is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited;  
or
  - (ii) If the Council is not so divided, it is a meeting to which at least two members of the Council have been invited.
  - (iii) The attendance at a meeting of any association of authorities of which the Council is a member.
- (c) The attendance at a meeting of the Cabinet or any of its Committees.
- (d) Duties undertaken on behalf of the Council:-
  - (i) In pursuance of any standing order made under Section 135 of the Local Government Act 1972 requiring a Member to be present while tender documents are opened;
  - (ii) In connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises
- (e) Pre-agenda briefings.
- (f) Training authorised under the Members' Training Programme which has been pre- booked through the Council's Training Administrator.
- (g) Attendance at Parish Council meetings within a Councillor's ward for the sole purpose of representing the District Council.



- (h) Previously arranged meetings with Officers of the Council at Council premises regarding constituency or relevant Council matters.
- (i) Site meetings at any location detailed in the agenda/minutes of a Committee with or without the attendance of a Council Officer.
- (j) Non-social public relations events.
- (k) Any other duty approved by the Council, or any duty of a class so approved for the purpose of, or in connection with, the discharge of the functions of the Council, or any of its Committees or Sub-Committees.
- (l) Attendance at meetings of organisations (e.g. the Local Government Association) are approved by the Council for travel and subsistence claims SUBJECT to approval by the relevant Member's Political Group Leader (if any); and appropriate arrangements being in place for reporting back from the relevant meeting
- (m) Attendance at conferences has been approved under Section 175 of the Local Government Act 1972 for the payment of travel and expenses claims subject to approval by the relevant Member's Political Group Leader (if any), completion in advance of the appropriate Member Nomination Form (obtained from the OD&L or Human Resources); and appropriate arrangements being in place for reporting back from the relevant conference.

### **20.15 Exclusions to Approved Duties**

The Council excludes the following activities from being Approved Duties even if they may also fit within a relevant definition:-

- (a) Political meetings whether National, Local, Group or Parish
- (b) Ward visits including research except in accordance with paragraph 9 of this Scheme;
- (c) Civic hospitality, social events, funerals and functions (receptions, official openings, sporting occasions) where invitations are personal and not as a representative of the Council;
- (d) Conferences and seminars of interest where the Member attends on a personal basis rather than as a representative of the Council;
- (e) Visits by Members to the Council offices except in accordance with paragraph 14.8 of this Scheme; and
- (f) Surgeries

### **20.16 Approved Mileage Rates**

- (a) For Motor cars 45p a mile
- (b) For Motorcycles 24p a mile
- (c) Pedal cycles 20p a mile

The rates specified for Motor Cars and Motorcycles shall be increased by 5p per mile for each additional passenger, who would be able to claim mileage under this

scheme.

### **20.17 Taxis**

The use of taxis or mini cabs should be kept to a minimum. They should only be used when public transport operations in the area visited are unknown, not reasonably available or in cases of urgency. In these cases, the actual fare will be reimbursed.

Where public transport is available, but the Member chooses to use a taxi or mini-cab, reimbursement will be limited to the equivalent public transport ordinary second class fare.

In limited circumstances, a Member may be reimbursed for the actual cost of a taxi within the District. Except for Members with a disability which prevents them from using public transport, travel from home to council offices (or vice versa) is excluded from this arrangement.

The limited circumstances are:-

- (a) If there is insufficient time for a Member to travel from one approved duty to another in the District and the use of other forms of transport would result in the Member arriving late to the second approved duty;
- (b) For reasons of safety; and
- (c) Where a Member has a disability which prevents them from using public transport

### **20.18 Air Travel**

Air travel is only to be approved where there are no reasonable alternatives taking into account availability and cost. The rate of travel by air shall in each case be individually considered by the Chief Executive and the Leader and if approved, booked by the office of the Chief Executive.

### **20.19 Subsistence Allowances**

The payment of Subsistence Allowances is subject to the principle that expenditure on meals/accommodation has actually been incurred. Members will be reimbursed the actual expenditure incurred up to the maximum rates set out in the scheme. All claims must be supported by receipts or third-party documentation.

No claim for subsistence is permitted where refreshments are provided, either by the venue or through the Council.

In the case of an absence, not involving absence overnight from the usual place of residence:

- (a) Breakfast allowance (more than 4 hours away from normal place of residence)- £6.68
- (b) Lunch allowance (more than 4 hours away from normal place of residence, including the lunchtime between 12 noon and 2 p.m.) £9.22

- (c) Tea allowance (more than 4 hours away from normal place of residence, including 3-6 p.m.) - £3.64.
- (d) Evening meal allowance (more than 4 hours away from the normal place of residence, ending after 7 p.m.) - £11.42.

In the case of an absence overnight from the usual place of residence, the reasonable expenses that are incurred up to a maximum of £90.61 and for such an absence overnight in London, £103.35. If this is claimed, no claim can be made in respect of 20.19 (a) – (d).

For the purpose of this scheme, London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

Notwithstanding the provisions of section 20.19, where accommodation is booked directly by the Council the full cost of the accommodation will be funded by the Council, although subsistence may only be claimed to the stated limits including the cost of the accommodation.

## **21. Gifts and Hospitality Guidance**

### **21.1 Introduction**

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position. This guidance supports the Members' Code of Conduct

The law on the acceptance of gifts and hospitality is set out in the Council's Code of Conduct for Members and in the Bribery Act 2010. These requirements are then supplemented by the procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 10 years' imprisonment.

This guidance sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it; and
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council.

### **21.2 General Principles**

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles.

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor:
  - (i) As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
  - (iii) The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or not doing anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of up to 10 years.
  - (iii) Further, the Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

- (b) You should only accept a gift or hospitality if there is a commensurate benefit to the Council.
  - (i) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
  - (ii) Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
  - (iii) As set out above, the Council's Code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.
- (c) Never accept a gift or hospitality if acceptance might be open to misinterpretation.
  - (i) The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
  - (ii) Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:
    - (1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular Tenderer.
    - (2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
    - (3) funding decisions, when the Council is determining a grant application by any person or organisation.
- (d) Never accept a gift or hospitality which puts you under an improper obligation.
  - (i) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

- (e) Never solicit a gift or hospitality
  - (i) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor. You should also take care to avoid giving any indication that you might be open to such any improper offer. Asking for a benefit may be an offence under the Bribery Act 2010.

### **21.3 Consent Regimes**

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another Public Authority
- (b) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Council.
- (d) small gifts of low intrinsic value below £50, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.
- (e) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a Contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable.
- (f) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head.
- (g) modest souvenir gifts with a value below £50 from another Public Authority given on the occasion of a visit by or to the Council.
- (h) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction to make it clear that any such hospitality for Councillors and Officers is to be no more than commensurate with the nature of the visit.
- (i) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the secretary to the Chairman of the Council together with a written statement identifying the

information set out below. The Chief Executive will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

Special consent provisions exist where you wish to accept any gift or hospitality which is in accordance with the General Principles set out above but is not within any of the general consents set out above. You may only accept the gift if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (a) the nature and your estimate of the market value of the gift or hospitality
- (b) who the invitation or offer has been made by or on behalf of
- (c) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved.
- (d) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council.
- (e) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper.

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of the gift as set out below.

## **21.4 Reporting**

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, you must, as soon as possible but not later than 28 days after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 21.3 above. A form for this purpose is available from the Monitoring Officer, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## **21.5 Gifts to the Council**

Gifts to the Council may take the form of the provision of land, goods or services,

either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council.

You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and Developers' contributions under Section 106 Agreements.

If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits).

If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council.

If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

## **21.6 Definitions**

"Gift or hospitality" includes any:

- (a) free gift of any goods or services
- (b) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public.
- (c) opportunity to obtain any goods or services which are not available to the general public.
- (d) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.



## **22. Protocol on Member/Officer Relationships**

### **22.1 Introduction**

The Success of the Council is greatly dependent upon the positive working relationship between Members and Officers. It is important that there should be a close working relationship between a Cabinet Member and the Chief Officers, Heads of Service and other appropriate senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, that the Officer's ability to deal impartially with other Members and party groups is brought into question.

It is important that dealings between Members and Officers should observe normal standards of courtesy, there should be mutual trust and respect, and neither party should seek to take unfair advantage of their position.

This Protocol seeks to enhance the working relationships between Members and Officers of the Council. Whilst the Protocol cannot be comprehensive it sets out guidance on some of the key issues that arise in those relationships. The Protocol reflects the principles underlying the Member Code of Conduct and the Principles of Public Life. The shared objective is to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct.

### **22.2 The Role of Members and Officers**

In fulfilling their roles, the elected Members and Officers are both jointly responsible for:

- (a) acting honestly, with integrity and in the public interest; and
- (b) open and transparent objective decision making.

In addition to the requirements set out in Article 4 and Article 6 of the Constitution, the Members' role is to:

- (a) Collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions;
- (b) Represent their communities and bring their views into the Council's decision-making process, i.e., become an advocate for their communities;
- (c) Effectively represent the interests of their ward and of individual residents;
- (d) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (e) Be involved in decision-making for the people of the District as a whole;
- (f) Be available to represent the Council on other bodies; and
- (g) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

In addition to the requirements set out in Article 3 of the Constitution, Officers are responsible for:

- (a) providing professional and technical advice that Members must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Members' decisions;
- (c) day-to-day administration, including staffing matters;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and
- (f) undertaking public consultation.

### **22.3 Underlining Principles for the Working Relationships**

The following principles apply to both Members and Officers during the course of their working relationship and in fulfilling their duties and are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

- (a) Mutual respect and courtesy between Officers and Members;
- (b) An awareness of each other's responsibilities and duties;
- (c) No inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind;
- (d) Any appropriate challenges are to be conducted in a professional and respectful manner;
- (e) Equal treatment, regardless of personal or political opinion (actual or perceived);
- (f) An adherence to the law and the lawful instructions and advice of others; and
- (g) An avoidance of close personal familiarity.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee, breaches of the Officer Code of Conduct as contained in the Council's HR Policies are dealt with the Head of Paid Service, in accordance with the Council's HR Policies and Procedures.

If an Officer is concerned about the conduct of a member, they should report this to their senior manager, who will notify both the Head of Paid Service and the Monitoring Officer. These concerns could include public criticism of an Officer by a Member or unreasonable, frivolous or vexatious requests for information.

### **22.4 Officer Appointments, Performance and Political Neutrality**

The appointment of the Chief Officers and Statutory Officers will be made in accordance with the Officer Employment Procedure Rules. All other appointments are made at the appropriate Officer level.

The main functions and areas of responsibility of Officers are set out in Article 3 and Chapter 4 of the Constitution. The position of the Head of Paid Service is to have overall corporate management and operational responsibility (including overall management responsibility for all officers).

Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers.

Members may wish to comment on an individual Officer's performance and/or deficiencies. In such instances these are expected to be raised with the relevant Chief Officer in the first instance. Thereafter to the Chief Executive if unresolved.

Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to Elections. In their lives outside work, all politically restricted posts, which includes the Chief Officers and Statutory Officers and many Senior Officers, are prevented from active political involvement.

## **22.5 Officer Advice to Party Groups**

There is statutory recognition for Party Groups, and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by Party Groups provided that this is first agreed between the relevant Group Leader and the Chief Executive.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman, a Cabinet Member or a Group (either jointly or individually) to a presentation to a full Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
- (b) Party Group meetings, whilst they inform part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- (c) where Officers provide information and advice to a Party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered; and

(d) the attendance of Officers at a Party Group meeting does not confer on that meeting any official standing.

Special care needs to be exercised whenever Officers are involved in providing information and advice to a Party Group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Code (in particular, the provisions concerning the declaration of interest and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

Officers must respect the confidentiality of any Party Group discussions at which they are present in the sense that they should not relay any confidential information to another Party Group.

Any particular cases of difficulty or uncertainty with providing advice to Party Groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

## **22.6 Support Services to Members**

The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photocopying, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with Party Political or Campaigning activity or for private purposes or for purposes not directly related to Council business. A similar restriction applies to the Public Relations Officers.

## **22.7 Members' Access to Information and to Council Documents**

Both Members and Officers must adhere to the Access to Information Procedure Rules as set out in the Constitution.

Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

Members are able to approach any Council Service with a request to provide them (within a reasonable period) with such information, explanation and advice (about that Service's functions), as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.

Members entitlement to information from Officers is linked to their role as a Member of the Council, a Ward Councillors, decision makers and performing functions, such as overview and scrutiny (this is referred to as the common law 'need to know' principle). Under common law principles Members have the right to access information held by the Council where it is reasonably necessary to enable the Member to properly perform their duties as a Councillor.

However, if the Member's motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on a 'fishing expedition' through the Council's documents.

If a Councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the Councillor would have to show good cause why sight of them is necessary to perform their duties.

In such instances, the Chief Officers may request a Member to demonstrate their 'need to know'.

All requests for information from members should normally be directed to the relevant Head of Service or Chief Officer. It must be remembered, however, that Officers within a Service are accountable to their Head of Service and whilst Officers should always seek to assist Members they must not, in doing so, go beyond the bounds of the Council they have been given by their Head of Service. Individual Members (except Cabinet Members acting under delegated authority) do not have the power or authority to instruct Officers to provide information, explanations, advice or to carry out any specific task or tasks.

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the private agenda for meetings in accordance with the provisions of the Access to Information Procedure Rules.

Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided and in connection with the proper performance of the Member's duties as a Member of the Council.

## **22.8 Correspondence**

Correspondence between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent over the name of the Member.

## **22.9 Decision Making**

Decision making by the Council is closely regulated by law. The taking of a decision by the wrong person or body or taken in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being overturned by a court at a later date.

The law does not interfere with the merits of a decision which is normally left to the discretion of the Council. The law is concerned with process and any failure to follow lawful process will be addressed by the courts, sometimes with severe consequences as to the liability of an authority to others.

All Members and senior officers must understand the parameters of the authority they exercise and recognise that acting outside those parameters leaves the Council open to legal liability and/or public criticism. For Members, such actions are likely to amount to a breach of the Member Code of Conduct and for Officers, may lead to disciplinary proceedings.

## **22.10 Officer Advice**

Any Cabinet Member taking decisions individually must take advice from the relevant officer(s). In taking Officer advice, Cabinet Members must consider what advice they require from the relevant service areas in respect of the particular issue to be addressed.

A Cabinet Member must always have the advice of the Monitoring Officer and Section 151 Officer when taking decisions.

The Cabinet Member must give officers adequate opportunity to provide them with the advice on the issue prior to them taking the decision.

If the Chief Executive and/or the Monitoring Officer agree that a decision is unlawful or in breach of existing Council policy or procedure, they will refer the matter back to the relevant Cabinet Member asking them to reconsider. Ultimately, and in a case of serious disagreement, the Monitoring Officer is under a legal duty to report any likely breach of the law to full Cabinet.



## **Chapter 4**

### **The Functions and Responsibilities**





## **23. Responsibility for Functions**

### **23.1 Introduction**

Section 13 of the Local Government Act 2000 (the 2000 Act) provides that all functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by any other enactment or by Regulations made under the 2000 Act.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the 2000 Regulations) gives effect to section 13 of the 2000 Act by specifying which functions:

- (a) are not to be the responsibility of Cabinet, as specified in Schedule 1 of the 2000 Regulations and as detailed in this Constitution; (Council Functions)
- (b) to be the responsibility of Cabinet (Executive Functions); and
- (c) may (but need not) be the responsibility of Cabinet (Local Choice Functions).

Only the Council has the discretion to decide which functions fall into (b) and (c) above. All other functions not so specified will be the responsibility of Cabinet.

### **23.2 Council Functions**

The functions of the Council are either:

- (a) those functions which are reserved as a Council Function by the 2000 Act and by subsequent enactments and regulations;
- (b) those functions which are reserved as Council Functions by Regulation 2 and Schedule 1 of the 2000 Regulations and subsequent regulations made under the Local Government Act 2000;
- (c) those functions set out in Regulation 3 and Schedule 2 of the 2000 Regulations 2000, unless otherwise stipulated; and
- (d) the plans and strategies whose adoption or approval shall be a Council Function (the “Budget and Policy Framework”), namely those plans and strategies set out in Schedule 3 of the 2000 Regulations, together with such other plans and strategies as the Council may identify from time to time for this purpose and as identified in Article 5.

The Council has determined that decisions relating to Council Functions shall be made in one of the following ways:

- (a) By one of the Council Committees listed in Article 8; or

(b) By Officers, in accordance with the Officer Scheme of Delegation.

### **23.3 Executive Functions**

The Functions of the Cabinet are also known as the Executive Functions, and are:

- (a) those functions stipulated as an Executive Function by the 2000 Act and by subsequent enactments and regulations; and
- (b) all other functions shall be Council Functions.

Decisions in respect of Executive Functions shall be made in one of the following ways:

- (a) by the Cabinet;
- (b) by one of the Cabinet Committees listed in Article 6;
- (c) by an individual Cabinet Member, within their areas of responsibility and delegated powers;
- (d) an Officer, or
- (e) where the decision is outside the Budget and Policy Framework, by full Council following receipt of advice from the Cabinet collectively.

The following joint committees exercise Executive Functions in accordance with their terms of reference and the agreements currently in operation:

- (a) the North Essex Parking Partnership Joint Committee; and
- (b) the Essex Countywide Traveller Unit Joint Committee.

### **23.4 Local Choice Functions**

The Local Choice Functions are those, which may (but need not) be the responsibility of the Cabinet as set out in Schedule 2 of the 2000 Regulations, as determined by the Council.

The Council has determined that the Cabinet will be responsible for exercising the following Local Choice Functions in accordance with arrangements made by the Leader:

- (a) the conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999;
- (b) the appointment of any individual:
  - (i) to any office other than an office in which he is employed by the Council;
  - (ii) to any body other than:
    - the Council;

- a Joint Committee of two or more authorities;
- a politically balanced body; or
- to any Committee or Sub-Committee of such a body;

and the revocation of any such appointment; any such appointments must be notified for information to the Council; and

- (c) the making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.

The Council is responsible for all other Local Choice Functions.

## **24. Scheme of Delegations to Cabinet Members**

### **24.1 General Principles**

This scheme delegates powers and duties in relation to Executive Functions and Local Choice Functions which are the responsibility of the Cabinet-to-Cabinet Members.

This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the 2000 Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.

Executive Functions are delegated by the Leader under section 9J of the Local Government Act 2000 (as amended). References to ‘the Regulations’ are references to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

### **24.2 Functions Reserved to Cabinet**

Any Executive decision which will result in a recommendation or proposal to the Council shall only be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member or Officer.

Any decision falling within any of the following categories shall be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member, a Cabinet Committee or an Officer or under joint arrangements unless it is delegated to that Cabinet Member, Committee, and an Officer or under joint arrangements after consideration by the Cabinet:

- (a) a decision on a matter which is cross cutting and affects the area of responsibility of more than one Cabinet Member; or
- (b) a decision that the Leader has decided should be referred to the Council;  
or
- (c) a Key Decision as set out in Article 7.

### **24.3 Delegations of Executive Functions**

The delegations to Officers in respect of the Executive Functions of the Cabinet are set out in paragraph 25 below.

### **24.4 General Limitations of a Cabinet Member Decision**

Cabinet Members are not permitted to take a Key Decision.

Before taking a decision, a Cabinet Member shall receive advice from the appropriate officer and must take advice from the Monitoring Officer and Section 151 Officer.

Any exercise of delegated powers shall be subject to:

- (a) the Budget and Policy Framework approved by the Council;
- (b) the policies approved by the Cabinet from time to time
- (c) any statutory restrictions;
- (d) the Standing Orders of the Council;
- (e) the Financial Procedure Rules; and
- (f) the Procurement Procedure Rules.

Delegation of Executive Functions to a Cabinet Member does not include the functions reserved to the Council contained in Article 5, or the functions reserved to Cabinet contained in Article 6.

#### **24.5 General Delegations to Cabinet Members**

In so far as required for the promotion of their Portfolio, the Cabinet Member may:

- (a) authorise officers to conclude any matter, process, or enter into any contract the undertaking of which, in principle, has previously been considered and authorised by Cabinet;
- (b) take non key Decisions;
- (c) to approve entering into contracts or the extension, or variation of contracts within their portfolio area providing that this is within the Financial Procedure Rules, Procurement Procedure Rules and the Budget and Policy Framework, and the extension or variation was provided at the point of the original award and is permitted under the terms of the Contract;
- (d) authorise a response by, or on behalf of the Council to consultations provided that;
  - (i) if the consultation raises issues of Council wide interest or significance it shall be referred to the Cabinet, or the appropriate Committee to agree a response; and
  - (ii) that if the consultation is concerned only with and calls for a response on matters of a technical professional nature, then Officers may deal with it without reference to a Cabinet Member;
- (e) agree appropriate fees and charges which are within the control of the Cabinet in consultation with the Corporate Director (Support Services), providing that they are consistent with the Budget; and
- (f) make, update or change plans and strategies provided that those changes do not conflict with an approved policy, do not raise new issues of policy, are within the approved budgets and do not exceed any of the financial limits set out in the Financial Procedure Rules that are within their portfolio area, and do not relate to a matter which is reserved to the Council.

## **24.6 Further provisions**

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

This scheme operates from 25 April 2023.

Cabinet Members will be permitted to approve small amendments to policies falling within their portfolio provided that such change:

- (a) Is to bring clarity or remove ambiguity; and
- (b) Does not change the overall meaning of the policy.

All significant changes and those brought into effect as the result of changes to the relevant legislation must be referred to Cabinet for approval.

Cabinet Members shall consult their Cabinet colleagues on all strategically important issues, or issues that are cross over more than one portfolio.

## **24.7 Portfolios of Individual Cabinet Members**

Members appointed to the Cabinet will lead for the Cabinet in the areas shown and will exercise the functions delegated to them by the Leader. The roles encompass relations with external partners unless another provision is explicitly made.

All Executive Functions are, and remain, vested in the Leader.

These responsibilities are in addition to those set out in Article 4 and Article 6.

### **24.7.1 The Leader**

- External Role at National, Regional & Local Level including joint working
- Lead on Business Planning, Performance & Corporate Strategy
- Devolution
- Corporate Communications & Reputation
- Corporate Consultation & Engagement
- External Strategic Partnerships and Relationships
- Emergency Planning
- Overall Vision & Strategic Direction
- Corporate Strategy
- Promotion of the District
- Communications
- Investment and Development Programme
- Electoral Administration
- Levelling up
- Cost of Living
- North Essex Alliance

- To exercise the executive functions of any Cabinet Member in their absence, in an emergency or in any other circumstance where the Leader thinks it is desirable to act on any matter.

## **Transformation, Performance and Delivery**

### **24.7.2 Cabinet Member for Transformation, the Environment and Customer Services, and Deputy Leader**

- Transformation, including shared services
- Commercialisation
- Waste & Recycling
- Climate Change
- Street Cleansing
- Parks & Open Spaces
- Car Parks
- Customer Services Charter
- Contact Centre
- Highways
- Specific Major Projects relevant to the Portfolio

### **24.7.3 Cabinet Member for Resources and Performance**

- Budget – Revenue & Capital Spend
- MTFS
- Treasury management
- Property & Estate Management
- Corporate Procurement
- ICT & Digital Services
- HR & Payroll Services
- Health & Safety, Insurance & Risk Management
- Corporate Governance
- Member support
- Performance Management
- Revenues, Benefits & Welfare
- Specific Major Projects relevant to the Portfolio

## **Connecting People Places and Prosperity**

### **24.7.4 Cabinet Member for Planning and Infrastructure**

- Planning & Neighbourhood Planning
- Local Plan
- Building Control
- Planning Enforcement
- Strategic Transport & Infrastructure
- Cycling Strategy
- NSIPs
- Land Charges
- Street Naming
- Biodiversity
- Landscape Services

- Specific Major Projects relevant to the Portfolio

#### **24.7.5 Cabinet Member for Economic Growth and Inward Investment**

- Economic Growth & Development
- Urban & Rural Regeneration
- Skills Including Apprenticeships
- Business Engagement & Support
- Town Centres – Planning and Investment
- Locate Braintree District including Tourism
- Digital Essex
- NEEB
- Inward Investment
- Specific Major Projects relevant to the Portfolio

#### **Supporting Communities**

#### **24.7.6 Cabinet Member for Housing, Health and Wellbeing**

- Strategic Housing Function
- Homelessness & Rough Sleeping
- Health & Wellbeing
- Environmental Health
- Leisure Services
- Older Persons & Ageing Well
- Social Mobility
- Welfare Reform
- Safeguarding

#### **24.7.7 Cabinet Member for Stronger Communities**

- Art, Heritage, Sport & Culture
- Children & Young People
- Community Funding & Grant Schemes
- Community Development
- Policing Matters
- Licensing Policy
- Community Safety
- Voluntary sector
- Equality & Diversity
- Community Facilities
- Rural Communities
- Armed Forces Lead



## **25. Officer Scheme of Delegation**

### **25.1 General Principles**

This scheme authorises Officers to take decisions about the exercise of the Council's statutory functions. The Council wants its Officers to be empowered to manage the services entrusted to them.

This scheme applies to all of the Council's powers and duties derived from legislation or otherwise and all incidental powers and duties.

Officers identified in this document as exercising delegated powers will be politically restricted under s2(1)(g) of the Local Government and Housing Act 1989.

Where an Officer has delegated powers, the Council or Cabinet or their Committees (where appropriate) can still exercise that power in a particular case if it considers it appropriate to do so.

In exercising any delegated powers, Officers are expected to undertake consultation with Members and Officers as necessary and shall have regard to any advice given.

Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.

Executive Decisions taken by Officers must be recorded as required by law and in accordance with the provisions in place by the Monitoring Officer. The Council has also agreed that all Council Decisions will be published in accordance with the provisions in place by the Monitoring Officer. In both instances the provisions set out in paragraph 15.23 must be followed.

An Officer may choose not to take a decision if they feel it is not appropriate for them to make a decision and may refer a matter to Cabinet or to the Cabinet Member (where these fall within the delegations set out above) for a decision.

Officers taking decisions are required to keep Members properly informed about relevant decisions.

All delegations to Officers are subject to:

- (a) statutory requirements;
- (b) the Constitution;
- (c) The Procurement Procedure Rules;
- (d) adherence of the Council's policies;
- (e) the requirements of the Chief Executive in relation to the day to day management and co-ordination of the Council; and
- (f) adequate financial provision having being made within the relevant budget for the likely financial consequences of any decision.

All the delegations within this scheme should be interpreted widely to aid the smooth running of the Council, the effective deployment of resources, the efficient delivery of services and the achievement of the Council's aims and ambition. For the avoidance of doubt, the following principles will also apply:

- (a) the delegations included in this Scheme shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of the power, duty or responsibility;
- (b) where any new power is given to the Council which does not fall within this Scheme of Delegation, the exercise of that power shall be undertaken by the relevant Corporate Director or the Chief Executive until such time as the Council has allocated responsibility;
- (c) advice and guidance regarding this Scheme shall be obtained from the Monitoring Officer;
- (d) Where legislation specifically referred to in the Scheme is amended or replaced by new legislation and in the event that the powers contained in the new legislation are substantially the same as those which it replaces then it shall be deemed that the relevant authority delegated in the schedule applies as if the new legislation had been specifically referred to as regards that relevant authority.
- (e) Where the name of a post is changed, any delegated powers possessed by the post shall be retained by the renamed post.
- (f) Where a service area is restructured, the Chief Executive has authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer and shall also notify all Members and Heads of Service.
- (g) When a post is vacant, and an employee takes on the duties of the post in an "acting" capacity, they have the same delegated powers that they would have if they held the post.
- (h) The delegations under this scheme can be exercised by the relevant direct line manager if the post is vacant, the post holder is not at work for any reason, or the person who has delegated authority has a conflict of interest in a matter that prevents them from taking the decision.
- (i) This scheme shall not apply to an interim or consultant operating any role with delegated authority unless specifically provided by Chapter 4.

## **25.2 Who can take decisions under this Scheme of Delegation**

This scheme may be delegated to another Officer of the Council to exercise delegated powers under a scheme of sub-delegations. The Monitoring Officer shall be notified of all sub-delegations and will maintain a record of them.

### **25.3 Decisions with Financial Implications of over £50,000**

This scheme does not authorise anyone other than the Chief Executive or a Corporate Director to take a decision on an Executive Function with financial implications which exceed £50,000.

Such a decision may only be taken after the Chief Executive or the Corporate Director has:

- (a) considered a written report; and
- (b) consulted the relevant Cabinet Member or in their absence, the Leader.

Nothing in this paragraph requires anything to be published if it includes exempt or confidential information, as set out in the Access to Information Procedure Rules.

### **25.4 General Limitations**

Officers may not take decisions on Executive Functions if the proposed decision is contrary to the Budget and Policy Framework. Any proposal to take a decision contrary to the Budget and Policy Framework must be the subject of a report to Cabinet who will make a recommendation to the Council.

Except as otherwise stated, no Officer may take a Key Decision.

Other than as set out below, this scheme does not authorise:

- (a) Officers to change fees, charges or concession policies, except;
  - (i) Officers may apply inflationary increases to fees, charges and concession policies;
  - (ii) Officers may determine fees for one off events or activities; and
  - (iii) Officers may determine the fees to be charged to other public bodies for services which the Council provides on a commercial or full-cost recovery basis.
- (b) Officers to make a compulsory purchase order;
- (c) the acquisition of an interest in land in anticipation of future requirements;
- (d) the confirmation of any order or grant of any permission, consent or licence or other determination where any response is received expressing opposition to the proposed course of action (unless stated);
- (e) any officer of the Council who is not a permanent employee to make any decision with financial implications in excess of £25,000;
- (f) the contravention of policies or strategies approved by Council or Cabinet;

- (g) Create or approve new policies and strategies which relate to the service delivery; or
- (h) Take decisions to withdrawn a service.

Authorisations are subject to any restrictions and limitation identified.

Any delegated power given to the Monitoring Officer or the s.151 Officer in relation to their statutory duties may only be exercised in their absence by their appointed deputies.

## **25.5 General Delegations**

All Officers listed in paragraph 25.7 have delegated authority to exercise any of the Council's functions and powers so far as it is necessary or conducive to do so in order to provide any service for which they have management responsibility. This includes, but is not limited to:

- (a) To act as the proper officer for all statutory purposes unless otherwise determined by this Constitution;
- (b) Commencing a procurement exercise in accordance with the Procurement Procedure Rules, provided the contract value is within the approved Budget;
- (c) entering into contracts, in accordance with the Procurement Procedure Rules and the Financial Procedure Rules;
- (d) implementing a policy or decision previously approved or taken by the Council, a Committee, the Cabinet or a Cabinet Member;
- (e) doing anything to facilitate or which is incidental to the implementation of such a policy or decision;
- (f) serving any Notice, Fixed Penalty, Abatement Notice or making any Order, but the instigating of proceedings shall be reserved to the Head of Governance;
- (g) authorising other officers to take any other steps necessary for or conducive to the performance of any such powers;
- (h) apply for any third party funding which are relevant to their service areas;
- (i) provide consultation responses to any Government White Paper or Green Paper, or any other consultation likely to lead to a policy change or impact upon service; where the response is of a technical professional nature;
- (j) To grant, renew, refuse or cancel any authorisation that may be required under the Regulation of Investigatory Powers Act 2000. This power may

only be exercised by those Corporate Directors or Heads of Service who have investigating officers in their service area or by the Monitoring Officer, the Deputy Monitoring Officer or the Chief Executive; and

- (k) To approve small amendments to policies falling within their service area, provided that such change is to bring clarity or remove ambiguity or bring in legislative changes, and they do not change the overall meaning of the policy. All other changes will be reserved to the relevant Cabinet Member, unless the changes are significant or substantial, in which case these must be approved by Cabinet.

## **25.6 The Corporate Directors General Delegations**

In addition to the specific delegations set out below, the Corporate Directors shall have the following authorisation where it is necessary in accordance with any statutory provision or is relevant to their functional area:

- (a) be permitted to authorise relevant staff to exercise powers of entry over land and buildings (including where relevant residential land).
- (b) be entitled to utilise all legislation relevant to their functional area which enables the enforcement of the Councils policies and procedures, or which protects life, health, safety, welfare, the environment or economic interests.
- (c) will participate in the corporate management of the Council and will direct and manage those services and resources as are allocated to them by the Chief Executive ensuring the most efficient and effective delivery in support of the Council's corporate goals in order that the Council meets its statutory obligations in these areas.
- (d) Purchase of vehicles, plant and equipment for which expenditure falls within the approved budget and in accordance with the Financial Procedure Rules and Procurement Procedure Rules. But if the purchase involves a leasing arrangement such arrangement must be approved by the Section 151 Officer.
- (e) Hire of plant subject to inclusion of cost of hire within approved Budgets;
- (f) Disposal of surplus plant, equipment and materials.
- (g) Authority to incur expenditure within approved capital and revenue budgets, subject to the Financial Procedure Rules.
- (h) Fixing of charges for work for external bodies where the charges are not prescribed by legislation.
- (i) Service of requisitions for information under the Crime and Disorder Act 1998.
- (j) The release of Council held information under the Data Protection Act 2018, Freedom of Information Act 2000 and the Environmental information Regulations 2004, and related frameworks subject to

consultation with the Monitoring Officer on any application of exemptions.

- (k) To sign Statements of Truth under the Civil Procedure Rules 1998 on behalf of the Council; and
- (l) Authority to apply for planning permission in respect of small projects and minor modification to projects.

### **Human Resources**

Further, the Corporate Directors shall exercise the following human resource responsibilities as appropriate to their relevant service area;

- (a) Appointment of agency staff provided costs are contained within service budgets.
- (b) To undertake a recruitment process for any vacant position, in accordance with procedures established by the HR Team;
- (c) Appointment of Heads of Service and below;
- (d) To agree flexible contracts and working patterns including job share, home working and term time working (in line with agreed policy).
- (e) To confirm appointments on completion of probationary period.
- (f) To implement the Council's employment procedures in line with agreed Council policy.
- (g) To authorise officers to attend professional or educational meetings, conferences or courses in consultation with the HR Manager.
- (h) Authorising of on-going training and individual qualification training courses subject to consultation with the HR Manager.
- (i) To agree unpaid leave of absence and compassionate leave in line with agreed policy.
- (j) Granting of contractual salary progression within career-graded posts in line with agreed Council policy and in line with agreed policy.
- (k) To approve revised job descriptions and job titles where no grading increase is involved in line with agreed policy.
- (l) The general organisation of services within the policies laid down by the Council; and
- (m) Subject to consultation and in line with agreed policy and budgets to determine new organisation structures below Head of Service.

### **25.7 Specific Officer Delegations**

In addition to the General Delegations the Officers specified below have the following Specific Delegations.

### **25.7.1 To the Chief Executive**

- (a) To act as the Head of the Paid Service for the purposes of section 4 of the Local Government and Housing Act 1989 and to make any decision which the Council may make as an employer.
- (b) To determine and publish the management structure of the Council.
- (a) Overall corporate management and operational responsibility (including overall management responsibility for all officers);
- (b) To act as the Councils Co-ordinator and to incur expenditure in the event of a civil emergency;
- (c) To determine the level of any performance pay to be awarded to Officers and recommend any level of performance pay to be awarded to Corporate Directors.;
- (d) Responsibility for promoting and maintaining probity in all of the Council's activities;
- (g) Representing the Council on partnerships and external bodies as required by Council or by statute;
- (h) Be the Electoral Registration Officer and the Local Government Returning Officer and to be empowered in relation to all electoral matters, including taking urgent decisions that may arise during the pre-election period. Any decision taken will be reported to Cabinet at the next available meeting after the elections have completed;
- (i) Be able to exercise all the powers delegated to the Corporate Directors unless there is a legal or professional impediment;
- (j) Take urgent decisions in respect of non-executive function which is considered necessary to protect the interests of or for advancing the business of the Council. In those circumstances, the Chief Executive is authorised to take urgent decisions following consultation with the Chairman (or Vice Chairman) of Council in respect of non-executive functions. All urgent decisions will be reported to the next appropriate meeting of Council.
- (k) In the absence of the Leader, or their absence the Deputy Leader, to take urgent Executive decisions, including a key decision, in accordance with the urgent procedure set out in the Access to Information Procedure Rules;
- (l) To exercise in the case of urgency the functions delegated to anyone under this scheme of delegation (but this does not authorise the Chief Executive to discharge the personal responsibility of the Chief Finance Officer under section 151 of the Local Government Act 1972 or the Monitoring Officer under section 5 of the Local Government and Housing Act 1989);

- (m) The Council's powers to take any action with respect to the Commissioner for Local Administration.
- (n) the transfer of staffing budgets allocated to a particular service area to another service area in any service grouping after notifying the Section 151 Officer and the Cabinet Member for Finance and Performance Management.
- (o) To publish information about Council services on the internet and decide whether or not to link sites.
- (p) In consultation with the relevant Cabinet Member, Leader of the Council and Section 151 Officer to apply for funding from any third party for the purposes of the regeneration of Braintree;
- (q) To approve Closure Orders taken under the Anti-Social Behaviour, Crime and Policing Act.

### **Deputising for the Chief Executive**

No one officer shall have a general authority to act as deputy or assume any of the duties and responsibilities of the Chief Executive. Instead, in the absence of the Chief Executive any one of the Corporate Directors will have the authority to assume the duties and responsibilities of that post; in any given circumstances, the Corporate Director most qualified and appropriate to do so will perform the function(s) or take the required decision(s).

### **25.7.2 Corporate Director (Operational)**

- (a) To be responsible for the following Service Areas:
  - Operations
  - Housing and Community Services
  - ICT & Facilities
  - Environment, Leisure and Health
- (b) To deal with all matters arising out of the Scrap Metal Dealers Act 2013, including the determination of all unopposed applications, variations and revocations:
- (c) To exercise the Council's powers with respect to the provision, maintenance and development of the Council leisure and tourism functions;
- (d) To exercise all powers under the Licensing Act 2003; other than those reserved to the Council or the Licensing Committee, as set out in Appendix B and in accordance with the Statement of Licensing Policy 2021-2026;



- (e) To exercise all powers under the Gambling Act 2005 other than those reserved to Council or to the Licensing Committee; and in accordance with the Gambling Licensing Policy Statement 2019 – 2022 and as set out in Appendix A;
- (f) To exercise all powers under the Animal Welfare Act 2006, the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 and any subsequent regulations made under them for the purpose of animal licensing; other than those reserved to the Council or the Licensing Committee, as set out in Appendix C;
- (g) To appoint Inspectors and Authorised Officers under any legislation;
- (h) The authority to comment upon and represent the Council on applications for Goods Vehicle Operator Licences
- (i) The grant of licenses of hackney carriages and drivers, private hire vehicles, operators and drivers in accordance with agreed policy;
- (j) Responsibilities relating to street trading under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 subject to it being considered by the Licensing Committee where a valid representation or objection is made and not withdrawn.
- (k) Delegation of all regulatory functions specified in Legislation and Regulations in respect to Environmental Health, Health & Safety and Food Safety.

### **25.7.3 Corporate Director (Support Services)**

- (a) To be responsible for the following Service Areas:
  - Finance
  - Governance
  - Human Resources and Officer Learning & Development
  - Marketing & Communications
- (b) To pay salaries, wages, honoraria and other gratuities.
- (c) Write off bad debts – unlimited value when by reason of insolvency and in accordance with the limits set out in the Financial Procedure Rules for all other reasons.
- (d) To deal with all insurance matters, including the settlement of insurance claims.
- (e) To waive requirements within the Procurement Procedure Rules for

specific projects in accordance with the provisions set out in the Procurement Procedure Rules;

- (f) To exercise the Councils function under the Freedom of Information Act 2000 and all Data Protection Legislation, and the Environment Information Regulations Act 2004; and
- (g) To be the Councils assigned Senior Information Risk Owner (SIRO).

#### **25.7.4 Corporate Director (Growth)**

- (a) To be responsible for the following Service Areas:
  - Planning & Economic Development
  - Strategic Investment
  - Asset Management
- (b) To exercise the Councils statutory functions as a Local Planning Authority, in accordance with the provisions set out in Appendix D.
- (c) To represent the Council for all planning and enforcement appeals, except where the Council has refused an application contrary to their recommendation. In such cases to shall act in an advisory capacity to a nominated Member(s) this may at their discretion include the obtaining of additional support by way of professional advice.
- (d) To exercise the Councils powers to accept land, where the land is or is to be transferred to the Council under planning obligation or for another planning purpose.
- (e) The serving of Building Preservation Notices
- (f) Authority to issue Enforcement Notices, Breach of Condition Notices, Listed Building Enforcement Notices, Conservation Area Notices, Stop Notices, Requisitions for Information, Planning Contravention Notices under the Town & Country Planning Act 1990 as amended and Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for all breaches of planning legislation in accordance with the Council's adopted Enforcement Policy.
- (g) To enforce the unauthorised display of advertisements, unauthorised works to a listed building, breach of tree preservation or Hedgerow Regulations, non-compliance where enforcement action has previously been authorised.
- (h) Authority to vary steps required to comply with enforcement notices already authorised, including altering period required for compliance, service of further notices and withdrawal of notices.
- (i) To exercise the Councils functions in relation to Neighbourhood

Planning, following consultation with the relevant Cabinet Member for Planning and Local Ward Members to;

- i. Designate a Neighbourhood Plan Area;
  - ii. Agree Modifications to a Neighbourhood Plan contained within an Independent Examiners Report; and
  - iii. To send a Neighbourhood Plan to referendum.
- (h) To exercise the Councils functions to issue a requisition notice for information under s.5A of the Acquisition of Land Act 1981.

#### **25.7.5 To the s.151 Officer**

- (a) All functions relating to local government pensions;
- (b) Duty to take all steps that are considered appropriate for the proper administration of the financial affairs, of the Council;
- (c) To amend the Financial Procedure Rules or the Procurement Procedure Rules where there has been a change of law, rearrangement of responsibilities or to correct an administrative error, in consultation with the Monitoring Officer. Any change made must be notified to all Members as soon as possible.
- (d) To deal with all matters and to exercise all discretions relating to the determination, administration and collection of non-domestic rates and Council Tax which are not reserved to Members, including the setting of the Council Tax Base under the Local Authorities (Calculation of Tax Base) Regulations 1992
- (e) To discharge the Council's functions relating to Council Tax and Housing Benefit, including measures to combat fraud
- (f) To be responsible for all treasury management matters including the borrowing of money, management of investment funds, banking arrangements and to act in accordance with the CIPFA's Code of Practice on Treasury Management in Local Authorities
- (g) To maintain an adequate and effective system of internal audit, as required under the Accounts and Audit Regulations 1996
- (h) To sign any financial forms required by the External Auditor or Government department, including from NNDR 1
- (i) To approve s.106 allocations £25,000 and above, where the S.106 Agreement clearly defines the basis upon which the monies is held and for those benefit.

### **25.7.6 To the Monitoring Officer**

- (a) To interpret, review, update and publish the Councils Constitution in accordance with Article 1.
- (b) To receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Corporate Governance and Audit Committee and the Standards Sub-Committee thereon, in accordance with the Code of Conduct Complaints Policy;
- (c) To grant applications for dispensations to Members with respect to their or their spouse's interest which arises as a result of membership of another public body;
- (d) To grant dispensations under the Code of Conduct or the Localism Act 2011;
- (e) The power to determine whether any particular claim for payment under the Members Allowances Scheme is in order;
- (f) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council and to determine whether a document should be sealed by the affixing of the Common Seal.
- (g) To attest the affixing of the Council's Common Seal;
- (h) To sign on behalf of the Council any document authorised by the Council, or which is necessary or desirable to give effect to any decision of the Council.
- (i) To issue certificates of opinion in connection with politically restricted posts.
- (j) To issue certificates for Major Projects under the Local Government (Contracts) Act 1997.
- (k) Responsibility for a system of record keeping for all the Council's decisions;
- (l) To be responsible for the Councils engagement with the Independent Remuneration Panel and the Independent Person
- (m) The maintenance of records of all interests given by any Member of the Council;
- (n) The provision of publication of the Council's decision-making process and individual decisions.

- (o) The provision of facilities for Councillors.

## **25.8 Specific Delegations to Heads of Service or Equivalent**

### **25.8.1 To the Head of Governance**

- (a) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant S.151 Officer before a settlement of any employment tribunal proceedings.
- (b) To approve the settlement of any claims brought against or by the Council up to a maximum sum of £30,000, in consultation with the S.151 Officer in any one case and provided that if the settlement amount is not included in any existing budget provision, then the Cabinet Member for Finance and Corporate Transformation must also be consulted.
- (c) To service any notice required to terminate any contract, agreement or lease entered into any the Council, including notices to vary any terms of such contracts, agreements or leases;
- (d) To authorise officers of the Council to appear in courts or tribunals where permitted by law;
- (e) To instruct Counsel and external solicitors on any matters likely to affect the interests of the Council;
- (f) To sign and serve any statutory or legal notice in accordance with any statutory powers or any functions of the Council and to place any public notice that the Council is required to do in law;
- (g) To sign on behalf of the Council any document, Contract, Agreement, or Lease authorised by the Council or which is necessary or desirable to give effect to any decision of the Council.
- (h) To sign statements of truth in accordance with the Civil Procedure Rules;
- (i) To sign indemnities and provide solicitor undertakings where they are required to enable the Council to exercise any of its functions, provided that where the giving of an indemnity or undertaking could have considerable financial implications, the Cabinet Member for Finance and Performance Management and the S.151 Officer shall be required to give their approval;
- (j) take any steps to collect any debt owed to the Council;
- (k) To administer the register of Local Land Charges, carry out official searches and to respond to enquiries of local authorities;

- (l) To exercise the functions of the Council in respect of the arrangements for convening of meetings of Council, Cabinet and their committees, and the preparation of a programme of meetings of the council, the Cabinet and their Committees;
- (m) In consultation with the Chairman of the Licensing Committee be authorised to adjourn a Licensing Hearing in accordance with the Licensing Act 2003 (Hearing) Regulations 2005;
- (n) To exercise powers to extend the time limits set out within the Licensing Act 2003 (Hearing) Regulations 2005;
- (o) To act as the Councils Data Protection Officer;
- (p) In consultation with the Chairman or Vice-Chairman of the Licensing Committee be authorised to suspend Hackney Carriage and/or Private hire Drivers licences under Section 61 of the Local Government (miscellaneous Provisions) Act 1976 (as amended) immediately, if in their opinion it is the interest of public safety that the suspension should have immediate effect, such suspension to last until the day after the next meeting of the Drivers' Panel.
- (q) To Discharge the Councils function in respect of Freedom of Information Act, Environmental Information Regulation, and access to information, and to act as the qualified person in respect of the same.

### **25.8.2 Head of Finance**

- (a) To exercise the Councils powers to authorise officers and agents to represent the Council in any court or tribunal or at any hearing on local taxation matters, and to serve warrants in respect of these matters and to administer a Caution and/or Administrative Penalty where appropriate.
- (b) The payment of expenses of official and courtesy visits
- (c) To enter into contracts for the supply of energy to the Council
- (d) To compile and manage the Councils contract register.

### **25.8.3 HR Manager**

- (a) To authorise the implementation of the decisions of negotiating bodies relating to pay and other conditions of service, except where the Council has discretion about how to implement the decision.

- (b) To authorise the write-off of any overpayment of pay which occurs as a result of death of an employee or pensioner during the period covered by the payment.
- (c) To recover any over payment of pay made in any other instance to that set out in (b) above.
- (d) To authorise payment of relocation expenses in accordance with the Councils Scheme
- (e) Power to enter into agreements with workers for the purposes of regulating working time.
- (f) Power to disapply any part of the Councils recruitment policy or employment standing orders for posts below heads of Service where this is in the interests of the Council and after considering the possible legal implications of doing so.
- (g) Power to make deductions from an employees pay for any reasons set out within the Councils Policies.
- (h) Power to enter into Settlement Agreements following consultation with the relevant Head of Service.

#### **25.8.4 Head of Operations**

- (a) To promote the use and enjoyment of the parks, amenity areas and recreation grounds;
- (b) To provide, maintain and develop parks, recreation grounds or amenity areas throughout Braintree District for recreational and amenity purposes.
- (c) To exercise the Council's powers in respect of the management of allotments.
- (d) The power to provide entertainments or catering of any nature anywhere in the Braintree District upon such terms and conditions as they shall determine.
- (e) To allow any part of any park or recreational ground to be used for an entertainment, unless the entertainment involves the closure of the whole park at a time when it would otherwise be open.
- (f) To take all necessary steps to ensure that bylaws relating to the public parks are compiled with

- (g) To make grants of burials and other rights
- (h) To exercise the Council's powers with respect to arranging burial or cremation where no one else is making arrangements
- (i) To exercise the Council's powers with respect to the management of the cemeteries
- (j) To take any action with respect to the management of parking places including exercising any discretion under parking places orders, the movement or removal of vehicles.
- (k) To issue and withdraw any off street penalty charge notice issued in conjunction with any parking provision enforceable by the Council, consider representations made in response to such notices and take any steps in connection with the Traffic Penalty Tribunal
- (l) To exercise any highway or traffic regulation function which the Council has powers to carry out under any agreement with Essex County Council (as varied from time to time)
- (m) To exercise any highway function with the Council has power to carry out in its own right as a District Council
- (n) To exercise the traffic regulations functions associated with the markets
- (o) To exercise the Council's functions relating to the provision of Markets
- (p) Provision of seats, drinking fountains and watering troughs
- (q) To take any step in order to make or vary a car parking order in accordance with the instructions from Cabinet.
- (r) To exercise the Council's powers relating to the enforcement of the law relating to dog fouling, stray dogs, dangerous dogs and the Council's functions associated with the same.
- (s) To exercise the Council's powers and duties with respect to the collection of household waste including the service of any statutory notices on any particular person or classes or persons and the granting of consents to clean wheeled bins.
- (t) To exercise the Council's powers and duties with respect to the collection of industrial and commercial waste including the Councils



powers to serve any statutory notices on any particular person or classes of persons and the granting of consents which the Council has power to grant.

- (u) To exercise the Council's powers with respect to the enforcement of the duty of care with respect to waste
- (v) To exercise the Council's powers and duties with respect to street cleaning, littering on any land, fly tipping and street furniture which has graffiti or fly posting on it
- (w) To appoint authorised officers under legislation relating to waste (including private land), litter (including on private land), highways, free distribution of printed matter and graffiti
- (x) To exercise the Council's powers with respect to recycling any waste.
- (y) Anti-social Behaviour (light pollution, barking dogs, amplified music, malodour from domestic properties, shouting/verbal abuse/threatening behaviour, accumulations of waste or animal faeces) Enforcement of smoking in smoke-free places and vehicles
- (z) To exercise the Council's functions in relation the enforcement and management of homeless people
- (aa) To exercise the Council's powers in relation to abandoned vehicles
- (bb) To provide and maintain the Council's owned public toilets

#### **25.8.5 Head of Housing and Community Services**

- (a) To manage the Council's powers in relation to antisocial behaviour and take steps to secure appropriate orders.
- (b) To develop and maintain closed circuit television systems for the purpose of the prevention of crime and disorder and provide services to others for who the Council has power to provide CCTV.
- (c) To exercise the Council's powers to take action concerning any matter which is, may become, or has been prejudicial to health or a nuisance;
- (d) After consulting the relevant Portfolio Holder, give voluntary organisations assistance by way of:
  - (i) grant or loan;
  - (ii) by permitting them to use Council premises on terms approved by the Asset Manager
  - (iii) making available furniture or other goods;

(iv) making available the services of Council employees.

#### **25.8.6 Head of Environment**

- (a) To exercise the Council's statutory functions in respect of building regulations including the issue of all approvals, rejections, relaxations or consents under the building regulations and their governing statute and service of all statutory notices.
- (b) To exercise the Council's powers with respect to ruinous, dilapidated or dangerous buildings or structures, or sites which are dangerous or detrimental to the amenity of the area.
- (c) To exercise the Council's powers to require sufficient sanitary facilities to be provided in buildings.
- (d) To exercise the Council's powers with respect to demolition of buildings (but not to grant any planning permission or conservation area consent).
- (e) To exercise the Council's powers to enter premises and carry out inspections of premises licensed as theatres, cinemas or places of entertainment.
- (f) To deal with any consultation concerning the safety of any sports ground.
- (g) To exercise the Council's powers to take enforcement action against persons erecting unsafe structures used on public occasions.
- (h) To exercise the Council's statutory functions with respect to building regulations.
- (i) To exercise the Council's powers in relation to the use and ventilation of soil pipes.
- (j) To exercise the Council's powers as enforcing authority of all legislation relating to health and safety at work.
- (k) To exercise the Council's powers with respect to the control of infectious and notifiable diseases.
- (l) To exercise the Council's powers, take action concerning any matter which is, may become or has been prejudicial to health or a nuisance.
- (m) To exercise the Council's powers with respect to the control of emissions into the air or into any land or watercourses (including

the issue and revocation of any consent or licence and taking any action to enforce the provisions of this).

- (n) To exercise the Council's powers with regard to:
  - (i) the control and tagging of dogs
  - (ii) rats and mice (and prevention of damage by them)
  - (iii) pigeons and other birds in built up areas
- (o) To exercise the Council's powers in relation to drainage:
- (p) To exercise the Council's powers with respect to filthy or verminous premises, articles or persons.
- (q) To exercise the Council's powers with respect to water supplies.
- (r) To serve notice requiring information about air pollution or information which the Council considers it needs for the purposes of legislation enacted to protect the environment or any part of it.
- (s) To exercise the Council's powers to require land to be cleaned up.
- (t) To exercise the Council's powers to prevent pollution of land, water or air or harm to human health.
- (u) To exercise the Council's powers to take steps to prevent or remedy any noise nuisance.
- (v) To exercise the Council's powers with respect to contaminated land.
- (w) To make any enforcement decisions and to take action with regard to the premises, places and vehicles in relation to which it has enforcement functions relating to the Council's enforcement functions (as defined in the Health Act 2006 and Smoke-free (Premises and Enforcement Regulations 2006)).
- (x) To authorise officers to act under the powers contained in s.61 of the Public Health (Control of Diseases Act 1984 including the power to apply for a warrant from a Justice of the Peace)
- (y) To deal with the Council's functions in relation to overcrowding of housing accommodation and Houses in multiple occupation.
- (z) Provision of street lighting (including powers to attach streetlights to buildings).

### **25.8.7 ICT & Facilities Manager**

- (a) To authorise any person to intercept any communication on the Council's IT or telecommunications systems where lawful to do so.
- (b) To carry out the Council's powers to provide voice telephony services in Council buildings.

### **25.8.8 Asset Manager**

- (a) To take steps which the Council is entitled to take as the person with an interest in any land. This delegation does not include the power to dispose of any land owned by the Council.
- (b) To acquire land or any interest in land by agreement under any enactment in consultation with the appropriate Cabinet Member.
- (c) To exercise all the Council's powers with respect to persons trespassing on Council land.
- (d) In consultation with appropriate Portfolio Holders to appropriate land belonging to the Council for purposes other than those for which it was acquired.
- (e) To receive notices served on the Council as the person with an interest in any land.
- (f) To apply for any kind of necessary permission or consent needed to develop land or alter any building.
- (g) To carry out the Council's functions relating to office accommodation.

### **25.8.9 Head of Planning and Economic Development**

- (a) To enter into any planning obligation agreement on behalf of the Council which relates to any planning or other application for development.
- (b) To exercise the Council's powers to number and renumber properties and name and rename streets.
- (c) To exercise the Council's functions in relation to Tree Preservation Orders, including the serving of compensation directions;
- (d) To exercise the Council's powers with respect to hedgerows.

- (e) To enter into any planning obligation agreement on behalf of the Council which relates to a planning or other application for development.
- (f) To issue scoping and screening opinions under regulations 13 and 32 of the Town and County Planning (Environment Impact Assessment) Regulations 2017.

**25.8.10 Section 106 Monitoring Officer**

- (a) To approve Section 106 allocations under £25,000, where the Section 106 Agreement clearly defines the basis upon which the monies is held and for those benefit.

## APPENDIX A – Gambling Act 2005

	<b>Matter To Be Dealt With</b>	<b>Full Council</b>	<b>Licensing Committee</b>	<b>Corporate Director</b>	<b>Head of Service</b>
a.	Three year Licensing Policy review	<i>All cases</i>			
b.	Fee Setting – when appropriate	<i>All cases</i>			
c.	Authority to make minor amendments to the Gambling Act policy statement in conjunction with the Chairman of the Licensing Committee				All cases
d.	Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn	
e.	Application for a Variation to a Licence		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
f.	Application for a Transfer of a Licence		Where representations have been received from the commission	Where no representations have been received from the commission	
g.	Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
h.	Authority to make representations to all applications on behalf of the Licensing Authority		All cases		All cases
i.	Authority to attach conditions, where relevant, to Premises Licences			<i>All cases</i>	
j.	Authority to refuse applications for Premises Licences			<i>All cases</i>	

k.	Authority to process applications for Temporary Use Notices		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
l.	Authority to process applications for Club Gaming and Club Machine Permits		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
m.	Authority to issue permits for more than 2 machines in Licensed Premises			<i>All cases</i>	
n.	Authority to process application for other Permits			<i>All cases</i>	
o.	Cancellation of Club Gaming/ Club Machine Permits		<i>All cases</i>		
p.	Cancellation of Licensed Premises Gaming Machine Permits			<i>All cases</i>	
q.	Review a Premises Licence		<i>All cases</i>		
r.	Determination as to whether a person is an Interested Party			<i>All cases</i>	
s.	Determination as to whether representations are relevant			<i>All cases</i>	
t.	Determination as whether a representation is frivolous, vexatious or repetitive			<i>All cases</i>	
u.	Consideration of Temporary Use Notice			<i>All cases</i>	
v.	Decision to give a counter notice to a Temporary Use Notice		<i>All cases</i>		
w.	Consideration of an Occasional Use Notice			<i>All cases</i>	

## APPENDIX B – Licensing Act 2003

	<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Corporate Director (Operations) or Officer holding delegated authority.</b>
a.	Application for personal licence		If a police objection	If no objection made
b.	Application for personal licence with unspent convictions		All cases	
c.	Application for premises licence/Club Premises Certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
d.	Application for provisional statement	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
e.	Application to vary premises licence/club premises certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
f.	Application to vary designated premises supervisor		If a police objection	All other cases
g.	Request to be removed as designated premises supervisor			All cases
h.	Application for transfer of premises licence		If a police objection	All other cases
i.	Applications for interim Authorities		If a police objection	All other cases
j.	Application to review Premises licence/club premises certificate		All cases	
k.	Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
l.	Decision to object when local authority is a		All cases	



	consultee and not the relevant authority considering the application			
m.	Determination of an objection to a temporary event notice		All cases	
n.	Determination of application to vary premises licence at community premises to include alternative licence condition			All cases
o.	Decision whether to consult other responsible authorities on minor variation application			All cases
p.	Determination of minor variation application			All cases

## APPENDIX C - Animal Welfare Licensing

	<b>Matter to be dealt with</b>	<b>Council</b>	<b>Licensing Committee</b>	<b>Officers</b>
a.	Setting of Fees and Charges	In all cases		
b.	Adoption of Policy		In all cases	
c.	Grant or renewal of a license to carry on a licensable activity			Corporate Director
d.	Transfer of a license in the event of the death of the license holder			Corporate Director
e.	Suspension, Variation or revocation of a license			Corporate Director
f.	Receipt of representations against the suspension, variation or revocation of a licence			Corporate Director
g.	Service of a Notice			Corporate Director
h.	Appointment of suitably qualified inspectors			Corporate Director
i.	Appeal of a risk rating score			Head of Environment, Leisure and Health

## APPENDIX D: PLANNING SCHEME OF DELEGATION

### A. Applications to be referred to Planning Committee for determination

(Notwithstanding Town/Parish Council Representation, member Call In or number of representations from Local Residents)(to be presented by Officers and debated by Members at Planning Committee):

- (a) Major Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for residential development comprising 10 or more proposed houses or commercial development (including changes of use) comprising floorspace of 1,000sq.m, including any linked application for Listed Building Consent<sup>1</sup>.
- (b) Major or Minor Planning Applications for Renewable Energy Schemes, including solar, wind and bioenergy projects, and proposals for Anaerobic Digestion Plants.
- (c) Where the Applicant is Braintree District Council.
- (d) Where the Applicant or Agent is an employee or Member of Braintree District Council.
- (e) Where the Applicant or Agent is related to an employee within the Planning Department (Development Management or Planning Policy) (change from Braintree District Council<sup>2</sup>) or a Member of Braintree District Council.
- (f) Any application which is deemed to be 'significant' by the Planning Development Manager.

### B. Applications which can be determined under Delegated Powers which may be subject to referral to Chair's Briefing as a result of Town/Parish Council representation, Member Call In or representations from Local residents:

Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval, Full Planning Permission or permission in Principle) for residential development comprising 3-9 proposed houses, including any linked application for Listed Building Consent, **Unless:**

- (i) Either the Town or Parish Council's view is contrary to the Officer Recommendation; or
- (ii) the application has been 'Called In' for determination by a BDC Member by the end of the specified consultation period and is accompanied by planning reasons for why the application should be referred to Planning Committee for determination; or
- (iii) 6 or more valid planning representations from separate households have been received;

#### **Then:**

The application shall be referred to Chair's Briefing, with the Chair and Vice Chair of the Planning Committee, who will consider whether the application should be referred to the Planning Committee for determination, except if a previous application for the

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<sup>1</sup> For Members information only, currently the Government define a major residential development to be 10 units or more or sites 0.5ha or more and for non-residential development is where additional floorspace of 1,000sq.m or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015, **however for the purposes of the Scheme of Delegation only the 10 units or more and 1000sq.m floorspace thresholds will be utilised to define a Major Planning Application and not the site area definitions.**

<sup>2</sup> We currently have one agent who is related to a Member of BDC staff and as a result, all of his applications are reported to Planning Committee.

same or substantially the same application site has been refused planning permission under Delegated Powers or by the Planning Committee where the proposal is deemed to be 'similar' to the previously determined application by the Planning Development Manager.

**C. Applications which can be determined under Delegated Powers**

(Notwithstanding Town/Parish representation, member Call In or number of representations from Local Residents)

- (a) Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval, Full Planning Permission or Permission in Principle) for residential development comprising 1-2 proposed houses, including any linked application for Listed Building Consent.
- (b) All Section 73 applications to vary or remove planning conditions, including seeking minor material amendments, associated with any previous consent (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for 'Major', 'Minor', or 'Other' Planning Applications.
- (c) Minor Planning Applications for replacement dwellings.
- (d) Minor Planning Applications for agricultural workers dwellings (temporary or permanent).
- (e) Minor Planning Applications for any other commercial development or change of use.
- (f) All of the following Application Types\*:

<b>Application Type</b>	<b>Description</b>
<b>ADV</b>	Applications for Advertisement Consent
<b>AGR</b>	Agricultural Prior Approval
<b>ALT</b>	Certificate of Alternative Appropriate Development
<b>AREM</b>	Agricultural Reserved Matters
<b>CLPLB</b>	Certificate of Lawfulness for Works to a Listed Building
<b>COMPA</b>	Commercial Extensions Prior Approval
<b>COUPA</b>	Applications for Prior Approval (All)
<b>DAC</b>	Application for Approval of Details reserved by condition following grant of planning permission or a listed building consent
<b>ECCDAC</b>	Consultation on Essex County Council Discharge of Conditions Applications
<b>ELD</b>	Application for a Certificate of Lawfulness for an Existing Use or Development
<b>FPO</b>	Footpath Order
<b>GOV</b>	Development by Government Department
<b>HDG</b>	Hedges
<b>HH</b>	Householder Application for Planning Permission
<b>HHPA</b>	Householder Extensions Prior Approval
<b>LBC**</b>	Application for Listed Building Consent for alterations, extensions or demolition of a listed building
<b>LDOCC</b>	Local Development Order Compliance Checklist

<b>NMA</b>	Application for a Non-Materials Amendment following a grant of planning permission
<b>OHL</b>	Overhead Electricity Lines
<b>P14JPA</b>	Prior Approval – Part 14, Class J
<b>P3RNOT</b>	Notification – Part 3, Class R
<b>PDEM</b>	Prior Approval for Demolition
<b>PLD</b>	Application for a Certificates of Lawfulness for a Proposed Use or Development
<b>S106A***</b>	S106A to modify or discharge S106
<b>SCO</b>	EIA Scoping Opinion
<b>SCR</b>	EIA Screening Opinion
<b>T56</b>	Telecoms 56 Day Notification
<b>TDC</b>	Technical Details Consent
<b>TEL</b>	Telecommunications General
<b>TMPCOU</b>	Temporary Change of Use
<b>TPO</b>	Works to Protected Trees (subject to a TPO)
<b>TPOCON</b>	Works to Trees within a Conservation Area

\*Application Types – The list of application types suitable for delegation may be updated to include any new prior approval or notification application types introduced by the Government.

\*\*LBC – Except where the Listed Building Consent application has been submitted in connection with an application considered under Part ‘A’ or Part ‘B’.

\*\*\*S106A – Where significant modifications are proposed to a Section 106 Agreement, the Planning Development Manager will consider whether the application is deemed to be ‘significant’ and therefore whether it should be referred to Planning Committee for determination under Part ‘A’ of the Scheme of Delegation.

### **Consultations on Essex County Council Applications or Out of District Applications<sup>3</sup>**

Consultation Responses which can be determined under Delegated Powers, following referral to the Cabinet Member for Planning:

<b>Application Type</b>	<b>Description</b>
<b>ECC</b>	Consultation on Essex County Council Applications <sup>3</sup>
<b>ODC</b>	Out of District Consultation

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<sup>3</sup> As the majority of these applications are for smaller scale development, Development Management could notify the Cabinet Member for Planning on receipt of the consultation and await confirmation of whether a response could be issued by Officers, or if a draft response should be prepared for review and approval, prior to issue.