

# **Council Constitution**

**Wednesday 24 May 2023**

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# **PART 1 – THE CONSTITUTION**

## **A - SUMMARY AND EXPLANATION**

**LAST FULL REVIEW: JUNE 2018**

Version 22.5

Date Revised 13/04/23

## **A. Summary and Explanation**

### **1. The Council's Constitution**

- 1.1 The Constitution of the Royal Borough of Windsor and Maidenhead sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Many of these processes are required by law, while others are a matter for the Council to choose.
- 1.2 The Constitution contains a number of parts, which set out the rules and procedures governing the Council's business. The Constitution provides a single point of reference for the overall way in which decisions are made.
- 1.3 Article 1 of the Constitution commits the Council to promote democratic local communities which are environmentally sustainable, prosperous and safe, providing equalities of opportunity and empowering all our communities.

Other Articles explain who are the Members of the Council, rights of residents and how key parts of the Council operate. The Articles are:

- Article 2 - Members of the Council
- Article 3 - Residents and the Council
- Article 4 - The Council meeting
- Article 5 - Chairing the Council
- Article 6 - The Cabinet
- Article 7 - Regulatory and other Panels
- Article 8 - Member Standards Panel
- Article 9 - Joint arrangements
- Article 10 - Overview and Scrutiny of Decisions
- Article 11 - Officers
- Article 12 - Decision making
- Article 13 - Finance, contracts and legal matters
- Article 14 - Review and revision of the Constitution
- Article 15 - Suspension, Interpretation and Publication of the Constitution

### **2. HOW THE COUNCIL OPERATES**

- 2.1 The Council is composed of 41 Councillors (also referred to as 'Members') elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.2 Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

- 2.3 The Council currently operates a Leader and Cabinet (Executive) structure. Some Councillors have specific responsibilities for an area of the Council's activities (a portfolio).
- 2.4 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will elect from its Councillors a Leader at the Annual Council following ordinary local elections or at any other Council meeting following the death or disqualification or resignation, or if removed from office by resolution. The Leader will appoint members to a Cabinet. The Council will also appoint the Chairman and Members of the Regulatory, other Committees and Council Panels for each year. The Council will undertake the business reserved to it by these Articles and, with the Overview and Scrutiny Panels, will hold the Cabinet to account. It will have responsibility to oversee all activities of the Committees and Panels it appoints.
- 2.5 Public involvement in the Council meetings will be maintained by Public Questions and by the provision to bring Petitions to the Council in accordance with Part 7G – Petitions Protocol. There is also the right to speak at Development Management Panels, and at the Chairman's discretion, at the Cabinet, other Committees and Panels. The Council supports the principle of transparency and encourages the filming, recording and photographing of meetings open to the public. Details are set out in Part 7H – Filming and Recording Protocol.

### **3. HOW DECISIONS ARE MADE**

- 3.1 The Council is responsible for setting the Budget and overall policy framework.
- 3.2 The Cabinet is the part of the Council which is responsible for most day-to-day decisions which are made in line with the Council's overall policies and budget. The Cabinet is made up of the Leader elected by the Council and up to 9 other Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated and may be considered by the appropriate Overview and Scrutiny Panel before they are considered and determined by Cabinet. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed.
- 3.3 The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.
- 3.4 The Cabinet for the current municipal year is set out in Part 9B. The roles of the Cabinet members are set out in Part 9C of this Constitution.

#### **4. OVERVIEW AND SCRUTINY**

- 4.1 The three Overview and Scrutiny Panels support the work of the Cabinet and the Council as a whole. They allow residents to have a greater say in Council matters by holding public inquiries into matters of local concern. They may make reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.
- 4.2 The Overview and Scrutiny Panels also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Panel to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.
- 4.3 Overview and Scrutiny Panels can receive requests to consider issues through local Councillors (Councillor Calls for Action). The Overview and Scrutiny Panels have the power to set up sub-panels to look into specific issues if required.

#### **5. THE COUNCIL'S STAFF**

- 5.1 The Council's staff (called 'Officers') give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Members of the Council and is included in the Constitution (Part 7D).

#### **6. RESIDENTS' RIGHTS**

- 6.1 Residents have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution but are available from the relevant Council service directly.
- 6.2 Residents have the right to:
- a) Vote at local elections if they are registered;
  - b) Contact their local Councillor about any matters of concern to them;
  - c) Obtain a copy of the Constitution;
  - d) Attend meetings of the Council and its Cabinet, Committees, and Panels except where, for example, personal or confidential matters are being discussed;
  - e) Petition to request a referendum on a mayoral form of executive;



- f) Participate in the Council meeting during public questions, other meetings, speak on planning applications, present petitions and contribute to Overview and Scrutiny investigations;
- g) Complain to the Council about any of its services under the Council's Complaints Policy and Procedure which can be found on the Council's website;
- h) Find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers;
- i) Attend meetings of the Cabinet where key decisions are being discussed or decided;
- j) Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- k) Complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Members' Code of Conduct;
- l) Inspect the Council's accounts and make their views known to the external auditor;
- m) Any member of the public can ask a local Councillor to refer an issue to the relevant Overview and Scrutiny Panel for consideration (Councillor Call for Action).

6.3 The Council welcomes participation by its residents in its work. Further information on your rights as a resident, and residents' rights to inspect agendas and reports and to attend meetings is available from the Head of Governance.

6.4 The public also has rights to inspect information held by the Council under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. More information on this is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk).

# **PART 1 – THE CONSTITUTION**

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## Article 1 – The Constitution

### 1.1 Powers of the Council

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

### 1.2 The Constitution

The Constitution, and all its appendices, is the Constitution of the Royal Borough of Windsor and Maidenhead.

### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

<b>Principle</b>	<b>What it means in this Constitution</b>
Enhance service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Ensure accountability	Ensuring mechanisms for those responsible to be held to account for them
Increase transparency	Having streamlined and simplified clear decision-making responsibilities which are open to the public.
Enable community representation	Enabling Councillors to represent local communities effectively
Increase community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Encourage corporate working	Encouraging a partnership approach between the Cabinet and Overview and Scrutiny Panel, Officers and Members

<b>Principle</b>	<b>What it means in this Constitution</b>
	and better corporate working on cross cutting issues

#### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## Article 2 – The Members of the Council

### 2.1 Composition and eligibility

- a) Composition. The Council will comprise 41 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- b) Eligibility. Only registered voters of the Royal Borough or those living or working there or occupying property in the area will be eligible to hold the office of Councillor.

### 2.2 Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years from 2003. 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. By-elections are held at the request of two electors from the current register of electors when a casual vacancy arises for any seat, unless the vacancy arises within six months of the ordinary elections for that seat.

### 2.3 Roles and functions of all Councillors

A Councillor may have up to five main roles. They perform one or more of the following duties:-

- i) Community leadership and representation;
- ii) Executive decision-making;
- iii) Policy development and review;
- iv) Overview and Scrutiny;
- v) Quasi-judicial and regulatory decision making.

Taken together, these roles enable Councillors to:-

- i) Collectively in meetings of the Council be the ultimate policymakers and carry out a number of strategic and corporate management functions;
- ii) Represent the communities of their wards, bringing their views into the Council's decision-making process and represent the Council to those communities, i.e. become an advocate of, and for, their communities.
- iii) Respond to Constituents' enquiries and representation fairly and impartially, deal with individual case work and otherwise effectively represent the interests of their wards and individual Constituents;
- iv) Participate in the governance and management of the Council;
- v) Represent the Council on other bodies and
- vi) maintain the highest standards of conducts and ethics.

## **2.4 Rights and duties**

- i) 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.
- ii) Councillors will not 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 Councillor or Officer entitled to know it.
- iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 8E of this Constitution.

Further duties of all councillors can be found in Part 9C of this Constitution

## **2.5 Conduct**

Councillors will at all times observe the Members’ Code of Conduct, the Member/Officer Protocol and the Members’ Social Media Protocol as set out in Part 7A, 7D and 7I of this Constitution.

## **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 9 A of this Constitution.

## Article 3 – Citizens and the Council

### 3.1 Introduction

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints. (For more detail see Access to Information Rules in Part 8E of this Constitution).

Citizens also have the following rights:

### 3.2 Information.

Citizens have the right to:

- i) Attend meetings of the Council and its Committees, Forums and Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.
- ii) Find out from the forward plan what key decisions will be taken by the Cabinet and when.
- iii) Attend meetings of the Cabinet when key decisions are being considered.
- iv) See reports and background papers, and any records of decisions made by the Council, the Cabinet and non-executive committees of Council.
- v) Inspect the Council's accounts and make their views known to the external auditor.
- vi) Access information held by the Council, under the Freedom of Information Act 2000 and Environmental Information Regulations 2004. Further information on these rights is available on the Council's website <http://www.rbwm.gov.uk>

### 3.3 Participation.

Citizens have the right to ask public questions at Council and may be invited to participate in public Cabinet meetings, and contribute to investigations by the Overview and Scrutiny Panels. They have the right to speak at Development Management Panels in accordance with Part 6 and Part 7F of this Constitution.

### 3.4 Complaints.

Citizens have the right to complain to:

- i) The Council itself under its complaints scheme.  
[https://www3.rbwm.gov.uk/info/200127/contact\\_the\\_council/898/make\\_a\\_complaint](https://www3.rbwm.gov.uk/info/200127/contact_the_council/898/make_a_complaint)
- ii) The Ombudsman after using the Council's own complaints scheme.  
<https://www.lgo.org.uk/make-a-complaint>
- iii) The Monitoring Officer about a breach of the Members' Code of Conduct.  
[https://www3.rbwm.gov.uk/info/200129/council\\_structure/821/monitoring\\_officer](https://www3.rbwm.gov.uk/info/200129/council_structure/821/monitoring_officer)



### **3.5 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

## **Article 4 – The Full Council**

### **4.1 Introduction**

The full Council is a formal meeting of all Councillors and the Mayor. The full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of other specific matters.

The full Council provides a central forum for debate and gives the opportunity for Councillors and, at designated meetings throughout the year, members of the public, to ask questions about the Council or matters affecting the Borough.

There are four types of full Council meetings:

1. The Annual Meeting
2. Ordinary meetings
3. Extraordinary meetings
4. The Budget meeting

These meetings will be conducted in accordance with the procedure rules set out in Part 2 C Council Rules of Procedure.

### **4.2 Functions of the Council**

The functions and responsibilities of the Council are set out in:-

- a) Part 2 A: Council Terms of Reference;
- b) Part 2 B: Responsibility for Council Functions.

### **4.3 The Budget and Policy Framework**

#### Budget

The budget includes the allocation of financial resources to different services and projects, the Housing Revenue Account, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### The Policy Framework

The Policy Framework is set out in Part 2 A as part of the functions of Council.

### Budget & Policy Framework Procedure

The Budget and Policy Framework Rules of Procedure set out in Part 3 B of this Constitution ensure consultation with Councillors who are not members of the Cabinet on initial proposals for these plans so that their views can feed into the development of these plans and strategies.

## **Article 5 – Chairing the Council**

### **5.1 Role and function of the Mayor**

#### **Ceremonial role**

The Royal Borough's Mayor is elected each year at the Annual Meeting as the first citizen of the Royal Borough, along with the Deputy Mayor. The Mayor represents the Royal Borough and carries out a full range of ceremonial duties on behalf of the Council.

#### **Chairing the Council meeting**

The Mayor will be elected by the Council annually. The Mayor (and in his/her absence the Deputy Mayor) will have the following responsibilities:

1. To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary, on the advice of the Council's Head of Governance in accordance with, where specified, the wishes of the majority of the Council.
2. 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.
3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Cabinet to account.
4. To promote public involvement in the Council's activities.
5. To attend such civic and ceremonial functions as the Council and he/she determines appropriate.
6. To determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules (Part 8E) or the Budget and Policy Framework Procedure Rules (Part 3) of the Constitution; and
7. To be consulted on any matter to which consultation with the Mayor is required under this Constitution.

Further duties of the Mayor and Deputy Mayor are specified in Part 9C.

## **Article 6 - The Cabinet**

### **6.1 Role**

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **6.2 Form and Composition**

The Cabinet will consist of the Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Leader.

### **6.3 Leader**

The Council will elect a Leader from its Councillors at Annual Council, following ordinary local elections or at any other Council meeting following the death or disqualification or resignation, or if removed from office by resolution.

Once appointed the Leader will be responsible for:-

- a) Determining the size of Cabinet;
- b) Appointing the Members of Cabinet;
- c) Allocating portfolios for areas of responsibilities to the various Cabinet Members;
- d) Allocating decision-making powers to the Cabinet and individual Cabinet Members;
- e) Removing and replacing Cabinet Members.

The Leader for the current municipal year is specified in Part 9B and their duties are specified in Part 9C.

During the Leader's term of office, he/she will automatically cease to be Leader upon death or disqualification or resignation or if removed from office by a Resolution of the Council.

### **6.4 Other Cabinet Members**

The Leader will appoint the Cabinet Members for a period of not more than one year, subject to the rules as set out below. The names and portfolios of the Cabinet Members will be announced to the Council by the Leader at the first available Council meeting.

Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet.

Cabinet Members shall hold office until:

- a) they resign from office; or
- b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c) they are no longer Councillors; or
- d) they are removed from office by the Leader who must give written notice of any removal to the Head of Governance . The removal will take effect two working days after receipt of the notice by the Head of Governance.

## **6.5 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 3A of this Constitution.

## **6.6 Responsibility for functions**

The Council will maintain a list in Part 9B of this Constitution setting out which individual Members of the Cabinet (if any), Committees, Forums or Panels of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular executive or particular Council functions.

## **6.7 Deputy Leader**

The Leader shall appoint one Cabinet Member as Deputy Leader. Wherever this Constitution refers to 'the Leader', the reference shall be taken to include reference to 'the Deputy Leader' whenever he/she substitutes for the Leader. The appointed Deputy Leader will act as Leader if the latter is unable to act or the post becomes vacant.

## **6.8 Leader and Deputy Leader of the Opposition**

The next largest opposition group of Members shall appoint a Councillor to the position of Leader of the Opposition, being the leader of the next largest group of Members. The Leader of the opposition can appoint a Deputy Leader of the Opposition.

The duties of the Leader of the Opposition are specified in Part 9C.

## **6.9 Cabinet Members for current municipal year**

The members of Cabinet for the current municipal year shall be specified in Part 9B of this Constitution. The duties of Members with such special responsibilities are specified in Part 9C.

## **Article 7 - Regulatory and other Committees**

### **7.1 Regulatory and other Panels**

The Council will appoint a number of committees and panels to carry out its regulatory functions. The Terms of Reference of these are set out in Part 6.

7.2 The Council in the case of Committees or the parent committee in the case of sub-committees or panels will, in the case of sub-committees or panels, appoint the members to serve on the committee, sub-committee or panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

7.3 The members of such committees and panels for the current municipal year shall be specified in Part 9B of this Constitution.

## **Article 8 – Member Standards Panel**

### **1.1 Introduction**

The Council will establish a Member Standards Panel. Its role will include the promotion and maintenance of high standards of conduct by Councillors.

### **1.2 The Role and Function of the Member Standards Panel**

The Terms of Reference are set out in Part 6.



## Article 9 - Joint Arrangements

### 9.1 Arrangements to promote well being

The Council and 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;
- c) exercise on behalf of that person or body any functions of that person or body.

The above is subject to the provisions of Article 9.2 and in accordance with any limitations imposed by legislation.

### 9.2 Joint Arrangements

- a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b) 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 as a whole.
- c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the Council.
- d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a Ward which is wholly or partly contained within the area.

In this case, the political balance requirements do not apply to such appointments.

- e) Details of any joint arrangements include any delegations to joint committees are found in the Part 6 of this Constitution.

### 9.3 Access to Information

The Access to Information Rules in Part 8E of this Constitution apply:

- a) 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.
- b) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **9.4 Delegation to and from other local authorities**

- a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **9.5 Contracting out**

The Council, for functions which are not 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.

#### **9.6 Joint Arrangements**

A list of the Council's current joint arrangements and partnerships can be accessed on the [Council's website](#).

#### **9.7 Principles for Partnership**

New partnerships or joint arrangements shall be commissioned on the basis of the principles and framework as set out in the Partnership Protocol in Part 7J of this Constitution.

## **Article 10 – Overview and Scrutiny Panels**

### **10.1 Introduction**

The Council has established three Overview and Scrutiny Panels which meet in public, subject to the Access to Information rules, to discuss and make recommendations on the development of the plans and strategies set out in Article 4 and on reports going to Cabinet and hold the Cabinet to account for its actions. The Overview and Scrutiny Panels also have a key role in considering other matters of local concern not necessarily just within the Council's areas of responsibility but affecting the Royal Borough and its communities.

### **10.2 Terms of reference**

The Overview and Scrutiny Panels will together and singly discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000. The Overview and Scrutiny Panels may appoint such sub-panels as they consider necessary or appropriate to carry out, effectively, its functions. Each sub-panel will be politically balanced, will produce Terms of Reference for agreement by the relevant Overview and Scrutiny Panel, including the period during which the sub-Panel shall meet, its membership and its proposals for investigation and reporting.

### **10.3 Role, Scope and Membership**

10.3.1 Within its terms of reference, the Overview and Scrutiny Panels may:

- i) Review and/or scrutinise decisions to be made by Cabinet and made by it or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- iii) Consider any matter affecting the area or its inhabitants.
- iv) Exercise the right to call-in, for reconsideration, decisions made in respect of which no steps have been taken to implement the decision.

10.3.2 The role, scope and membership of the individual Overview and Scrutiny Panels are described in Part 4B – Terms of Reference for Overview and Scrutiny:

10.3.3 The members of any Overview and Scrutiny Panel or any sub-panels shall not include the Mayor or any members of Cabinet.

### **10.4 Specific functions**

- a) **Policy development and review.**

The Overview and Scrutiny Panel may:

- i) Assist the Council and the Cabinet in the development of its budget and analysis of the draft plans to be submitted to Council under Article 4.
- ii) Conduct such necessary research and investigation in the analysis of the policy issues and the possible options for the plans to be submitted to Council as above.
- iii) Question relevant members of Cabinet and the relevant Director(s) about issues and proposals affecting the area.
- iv) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working.

b) **Scrutiny.**

The Overview and Scrutiny Panels may:

- i) Review and scrutinise the decisions to be made by Cabinet and which have been made by the Cabinet and Council officers both in relation to individual decisions and over time.
- ii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- iii) Question members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- iv) Make recommendations to the Cabinet and/or Council arising from the outcome of the Scrutiny process.
- v) Review and scrutinise the performance of the relevant bodies in the area and invite reports from them to address an Overview and Scrutiny Panel and local people about their activities and performance.
- vi) Question and gather evidence from any person or organisation (with that person/organisation's consent).
- vii) Consider any petitions to hold an Officer to account and to hear an appeal in relation to a petition.

c) **Finance.**

In carrying out its activities, the Overview and Scrutiny Panels will operate within such budget and allocation of officer time as the Council shall provide.

(d) **Annual report.**

The Overview and Scrutiny Panels will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### **10.5 Proceedings of the Panels**

The Overview and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

### **10.6 Scrutiny Officer**

As required by Law, the Council has designated a statutory “Scrutiny Officer” whose functions are to promote the role of the Council’s Overview and Scrutiny Panels, to provide support to them and their members and provide support and guidance to Council Members and Officers generally about the functions of the Overview and Scrutiny Panels.

## Article 11 - Officers

### 11.1 Definition

The use of the title “officers” in the Constitution means all of the employees of the Council and includes those staff who are engaged in any short term, agency or other non-employed capacity. Consultants may be ‘officers’ when they are recruited as an integral part of the Council’s business or operations and the contractual relationship is deemed by the Council to be sufficiently similar but not amount to employment.

### 11.2 Management Structure

- a) **General.** The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- b) **Senior Officers.** The Corporate Leadership team of the Council will comprise of the following posts:

Post	Functions and areas of responsibility
Chief Executive (Head of Paid Service)	Overall Corporate Management and operational responsibility (including overall management responsibility for all Officers)
	Provision of professional advice to all parties in the decision making process.
	Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions.
	Representing the Council on partnerships and external bodies (as required by statute or the Council).
Executive Director of Adults, Health and Housing	Adult Social Care, Commissioning, Public Health, Housing, Environmental Health, Transformation
Executive Director of Children’s Services	Children’s Social Care, Safeguarding (Child Protection), Schools, Youth Offending Team and Youth Services.
Deputy Director of Children’s Services	

<b>Post</b>	<b>Functions and areas of responsibility</b>
Executive Director of Resources and S151 Officer	Finance, Library and Resident Services, Revenues and Benefits, HR, Corporate Projects, IT.
Executive Director of Place Services	Planning, Communities, Infrastructure, Sustainability, Transport and Economic Growth
Deputy Director of Law and Strategy, Monitoring Officer	Governance, Legal Services, Strategy, Communications
Head of Housing and Environmental Health Services	
Head of Communities	
Head of Infrastructure, Sustainability, Economic Growth	
Head of Planning	
Head of Finance	
Head of Revenues, Benefits, Library and Resident Services	
Head of Human Resources, Corporate Projects and IT	
Head of Commissioning – Children and Adult Services	
Head of Legal	
Head of Governance	
Head of Transformation	

<b>Post</b>	<b>Functions and areas of responsibility</b>
Head of Strategy	
Head of Neighbourhoods	
Consultant in Public Health	
Director of Public Health for Berkshire East	

c) The following posts will have the allocated statutory designation:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Executive Director of Resources	Chief Finance Officer (s.151 Officer)
Executive Director of Children's Services	Director of Children's Services
Executive Director of Adults, Health and Housing	Director of Adult Social Services
Democratic Services Team Manager	Scrutiny Officer

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

The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **11.4 Conduct**

Officers will comply with the Member / Officer Protocol set out in Part 7 E.

### **11.5 Employment**



The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 8B of this Constitution.

## Article 12 - Decision Making

### 12.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 2B, Part 3A and Part 5 of the Constitution.

### 12.2 Principles of decision making

The Council has adopted the following principles to underpin all decision-making in the Council:

- proportionately (the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from Officers;
- consideration of the legal and financial implications
- respect for human rights and consideration of all other relevant duties, e.g. equalities;
- a presumption to favour of openness and inclusive decision-making;
- clarity of aims and desired outcomes in compliance with the Council's adopted Plans and Strategies;
- the giving of reasons for the decision and the proper recording of those reasons

When the Cabinet or Officers take an executive decision it will include consideration of any alternative options considered and rejected, and a record of the decision will be maintained in accordance with Part 4 of the Local Authorities (Executive Arrangements) (Access to Information) England Regulations 2012 and The Openness of Local Government Bodies Regulations 2014.

### 12.3 Types of decision

- a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b) **Key decisions** - A key decision is an executive decision which is likely:
  - 1) To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. The Council has decided that the relevant threshold at or above which the decision is significant will be £500,000 for capital expenditure and £500,000 for revenue expenditure. A budget heading is, for the purposes of this Article, the budget head set out each year in the annual budget book in the Service Summary.

Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds, once it is delegated to the school.

The financial amounts given above will be reviewed each year.

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

#### **12.4 Decision-making by the Council**

Subject to Article 12.8, the Council meeting will follow the Council Rules of Procedure set out in Part 2C of this Constitution when considering any matter.

#### **12.5 Decision-making by the Cabinet**

Subject to Article 12.8, the Cabinet will follow the Procedure Rules for Cabinet set out in Part 3 A of this Constitution when considering any matter.

#### **12.6 Decision-making by the Overview and Scrutiny Panels**

The Overview and Scrutiny Panels will follow the Procedure Rules for Overview and Scrutiny set out in Part 4A of this Constitution when considering any matter.

#### **12.7 Decision-making by other Committees, Forums and Panels established by the Council.**

Subject to Article 12.8, other Council Committees, Forums and Panels will follow those parts of the Council Rules of Procedures set out in Part 2 C of this Constitution as apply to them.

#### **12.8 Decision-making by Council bodies acting as tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/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.

#### **12.9. Decision making by officers**

All decisions taken by officers under the Council's Officer Delegation Scheme will be taken in accordance with the principles set out in this article.

#### **12.10 Record of decisions**

All decisions of the Council and its committees and sub-committees; the Cabinet and any committee or sub-committee of Cabinet; individual Cabinet Members

exercising delegated powers; and any officers exercising delegated powers will be recorded in accordance with Part 8 E - Access to Information Procedure Rules.

## **Article 13 - Finance, Contracts and Legal Matters**

### **13.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Finance Procedure Rules, as set out in Part 8 C of this Constitution.

### **13.2 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 8 A of this Constitution.

### **13.3 Legal Proceedings**

The Monitoring Officer is authorised to institute, participate in or settle 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 Monitoring Officer considers that such action is necessary to protect the Council's interests.

The Monitoring Officer has delegated powers to authorise officers to appear in court or tribunals on the Council's behalf.

### **13.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed the Monitoring Officer or other person authorised by him/her unless any enactment otherwise authorises or requires or the Council has given requisite authority to some other person.

### **13.5 Common Seal of the Council**

The Common Seal of the Council will 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 will 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 him/her or by Council.

### **13.6 Formal Deeds**

The Monitoring Officer is authorised to sign any formal deeds on behalf of the Council.

### **13.7 Dealing, Acquisition or disposal of Land and Real Property**

Every dealing, acquisition or disposal of land and real property made by the Council will comply with the Property Procedure Rules set out in Part 8D of the Constitution.

## **Article 14 - Review and Revision of the Constitution**

### **14.1 Duty to monitor and review the Constitution**

The Constitution Working Group shall, as part of its ordinary work and together with the Chief Executive and the Monitoring Officer, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **14.2 Protocol for monitoring and review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the Member and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders;
4. compare practices in this Council with those in other comparable authorities, or national examples of best practice.

### **14.3 Changes to Constitution**

Changes to the Constitution will only be (i) made by full Council or (ii) made by full Council after consideration of the proposal by the Constitution Working Group established to monitor and review the constitution.

Changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable can be made by the Monitoring Officer in consultation with the Chairman of the Constitution Working Group.

Changes will be recorded in Part 9D which shall include the change, reasoning for change and authority for the change.

### **14.4 Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa.**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 15 - Suspension, Interpretation and Publication of the Constitution**

### **15.1 Suspension of the Constitution**

The Articles of this Constitution may not be suspended. However some rules may be suspended but only by the full Council to the extent permitted within those rules and the law. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

### **15.2 Procedure to suspend.**

A Motion to suspend any rule(s) may not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **15.3 Rules capable of suspension.**

The following Rules may be suspended in accordance with this Article 15.2:

All Council Procedure Rules except Part 2 C17.4 and C18.2 – as stated in Council Procedure Rule Part 2 C24.

Contract Procedure Rules as provided in Contract Procedure Rule Part 8A Part 5.

### **15.4 Interpretation**

The ruling of the Mayor, advised by the Head of Governance, as to the construction or application of this Constitution or as to any proceedings of the Council shall only be challenged at a meeting of the Council following a Motion to that effect in accordance with Council Procedure Rule Part 2 C27. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.5 Publication**

- a) The Head of Governance will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council, or refer the Member to the copy available on the Council's web site.
- b) The Head of Governance will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations and on the Council's web site, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- c) The Head of Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.





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## **PART 2 – THE FULL COUNCIL**

### **A – COUNCIL TERMS OF REFERENCE**

## A. Council Terms of Reference

### 1.1 Functions of Full Council

Only the full Council will exercise the following functions:

1. Approving and amending the following plans and strategies which shall comprise the Policy Framework (as required by law):
  - (a) Children and Young People's Plan
  - (b) Crime and Disorder Reduction Strategy
  - (c) Local Transport Plan
  - (d) Licensing Authority Policy Statements under the Licensing Act 2003 and Gambling Act 2005
  - (e) Local Development Documents which together comprise the Local Development Framework
  - (f) Corporate Plan
  - (g) Housing Strategy
2. Approving and amending the following plans and strategies which shall comprise the Policy Framework (although not required by law):
  - (a) Any Plan or Strategy that must be approved by the authority and submitted to the Secretary of State or a Minister of the Crown for approval;
  - (b) Such other plans and strategies as the Council may decide to adopt.
3. Approving and amending the Budget, including:
  - (a) Housing Revenue Accounts Budget, General Fund Budget and Capital Programme
  - (b) Establishing contingency funds
  - (c) Agreeing the Collection Fund Balance
  - (d) Agreeing the Council Tax base
  - (e) Setting the Council Tax
  - (f) Making decisions relating to the control of the Council's borrowing requirement
  - (g) Approving the Annual Investment Strategy / Annual Treasury Management Strategy
  - (h) Approving the annual policy for making a Minimum Revenue Provision (MRP)
4. Approving and amending the Constitution (other than as detailed in Part 1 Article 14.3).
5. Appointment of Leader at the Annual Council following the local elections, or following the death or disqualification or resignation, or if removed from office by resolution at any other Council meeting.

6. Adopting a Members' Allowances Scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 as set out in Part 9A of this Constitution
7. Confirming the appointment or dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
8. Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough.
9. Appointing the Returning Officer and Electoral Registration Officer.
10. Agreeing the cycle of Council meetings.
11. Agreeing and/or amending Terms of Reference for Committees, Panels and other bodies and deciding on their compositions and appointments thereto.
12. Subject to the Urgency Procedure contained in the Access to Information Procedure Rules in Part 8E of the Constitution, making any decision where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to / or not wholly in accordance with the Budget.
13. Exercising any functions reserved for Council as set out in Part 2B – Responsibility for Council Functions.
14. Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
15. Adopting a Code of Conduct for Members (Councillors);
16. Taking decisions in respect of functions which are not executive functions and which have not been delegated by the Council to Committees, Sub-Committees or officers;
17. To consider and decide on recommendations of Committees on non-Executive functions not within their delegation or which a committee has referred to the Council for decision;
18. To consider decisions referred from Overview and Scrutiny in respect of executive functions where decisions have not yet been implemented and Overview and Scrutiny considers the decisions may be contrary to the Budget or Policy Framework;
19. To receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;
20. To provide a means whereby councillors may ask questions of matters relevant to the Council's functions and to bring forward motions for debate;

21. To receive an Annual Report from the Overview and Scrutiny Panels in relation to Scrutiny and an Annual Report from Audit and Governance Committee in relation to Audit and Performance of the Council.
22. To receive reports from the Leader or the Cabinet which they have referred to Council;
23. All other matters which, by law, must be reserved to Council as a whole.

## B. Responsibility for Council Functions

**TABLE 1: Responsibility for Local Choice**

These are functions which may be (but need not be) the responsibility of an authority's Executive (i.e. the Cabinet) identified in Schedule 2 to *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*, as amended.

These functions are sometimes called “Local Choice Functions” because the Council can decide whether the Cabinet should or should not be the decision making body. The Council has allocated these functions as follows:

<b>Functions from Schedules 2 Reg 3(1)</b>	<b>Decision making body</b>
1. Any function under a Local Act not specified in Table 2	Cabinet
2. The determining of an appeal against any decision made by or on behalf of the authority. (This excludes matters where statutory arrangements exist)	Council function delegated to the Appeals Panel and Employment Appeals Sub Committee
3. The making of arrangements for appeals against exclusion of pupils from maintained schools	Council function delegated to relevant Director
4. The making of arrangements for admission appeals by pupils and Governing Bodies	Council function delegated to relevant Director
5. Questions on police matters and appointments to the Police Authority	Cabinet function delegated to relevant Director
6. Any function relating to contaminated land	Cabinet function delegated to relevant Director
7. Any function relating to the control of pollution or the management of air quality	Cabinet function delegated to relevant Director
8. Any function relating to the abatement of statutory nuisances	Cabinet function delegated to relevant Director
9. Any function relating to noise nuisances	Cabinet function delegated to relevant Director

<b>Functions from Schedules 2 Reg 3(1)</b>	<b>Decision making body</b>
10. Powers of inspection to detect statutory nuisances	Cabinet function delegated to relevant Director
11. Investigation of complaints of statutory nuisances	Cabinet function delegated to relevant Director
12. Power to obtain information about interests in land under the Town & Country Planning Act 1990 (sec.330)	Cabinet function delegated to relevant Director
13. Power to obtain information about persons with interests in land under Local Government (Miscellaneous Provisions) Act 1976	Cabinet function delegated to relevant Director
14. Highways agreements	Cabinet function delegated to relevant Director
15. Appointments to external bodies and the revocation of such appointments.	Cabinet function delegated to relevant Director
16. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Cabinet function delegated to relevant Director
17. Functions under ss. 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007	Council function delegated to relevant Director



**TABLE 2: Responsibility for Council Functions**

These are functions which must not be the responsibility of an authority's Cabinet from Schedule 1 to *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*, as amended.

The full Council can discharge these functions itself or may delegate one or more functions to a committee or sub-committee of councillors, an officer of the Council or another authority. The full Council may always exercise powers it has delegated to the other bodies or persons set out above. It may also discharge its functions jointly with one or more other Councils.

Delegations to Officers are listed in the Articles, under the Scheme of Delegation to Officers under Part 5 and the terms of reference to committees contained in Part 6.

<b>Function</b>	<b>Decision making body</b>
<p>Functions relating to <b>town and country planning and development control</b> as listed in Section A. of Schedule 1 to the Regulations and as may be amended by law from time to time.</p>	<p>The Council has also established two Area Development Management Committees – <b>Maidenhead Development Management Committee</b> and <b>Windsor and Eton Development Management Committee</b> to consider other planning applications and matters as set out in the terms of reference in Part 6.</p> <p>The panels have made delegations to Officers, which are included within its terms of reference and the scheme of delegation.</p>

<p>Functions relating to <b>licensing and registration</b> as listed in Section B. of Schedule 1 to the Regulations and as may be amended by law from time to time</p>	<p>The Council has delegated powers to the <b>Licensing Panel</b>. The Panel has made delegations to officers, which are included within their terms of reference and the scheme of delegation.</p> <p>NB: (1) Powers in relation to common land, town or village greens identified in Paragraphs 37 and 38 of Section B are delegated to the <b>Rights of Way &amp; Highways Licensing Panel</b>.</p> <p>(2) Those powers concerning highways listed in Paragraphs 47 to 53 inclusive of Section B are delegated to the relevant Director.</p>
<p>Functions relating to <b>Health and Safety at work</b> as listed in Section C of Schedule 1 to the Regulations and as may be amended by law from time to time</p>	<p>Council.</p>
<p>Functions relating to <b>elections</b> as listed in Section D of Schedule 1 to the Regulations and as may be amended by law from time to time</p>	<p>Council.</p> <p>In addition there are delegations to Officers within this Constitution and the Council's Scheme of Delegation including permitting the Returning Officer to re-designate new Polling Places where such becomes unavailable or unsuitable before an election.</p>
<p>Functions relating to name and status of areas or individuals as listed in Section E of Schedule 1 to the Regulations and as may be amended by law from time to time</p>	<p>Council</p>
<p>Functions relating to <b>making, amending, revoking or re-enacting byelaws</b> as listed in Section F of Schedule 1 to the Regulations.</p>	<p>Council</p>

Functions relating to <b>promoting or opposing local or personal Bills</b> as listed in Section G of Schedule 1 to the Regulations	Council
Functions relating to <b>local government pensions</b> as listed in Section H of Schedule 1 to the Regulations	The Council has delegated all functions relating to the Local Government Pensions under Regulations made under sections 7, 12 or 24 of the Superannuation Act 1972, except where these functions may not lawfully be delegated to an officer or are reserved to the Full Council or a Committee of the Council under legislation or under any Scheme or policy made by the Council.
<b>Miscellaneous</b> functions as listed in Section I of Schedule 1 to the Regulations and as may be amended by law from time to time	Council. NB: (1) The Council has delegated powers in relation to highways and rights of way listed in Paragraphs 1, 2, 4 to 7, 9 to 11, 13, 20, 23, 30 to 32 inclusive to the <b>Rights of Way &amp; Highway Licensing Panel</b> .  (2) The Council has delegated to the <b>Appointment Committee</b> its powers to appoint certain staff. There are also delegations to Officers in respect of staff.

## **C1 ANNUAL MEETING OF THE COUNCIL**

### **C1.1 Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:

- a) elect a person to preside if the Mayor or Deputy Mayor is not present.
- b) elect the Mayor of Council
- c) elect the Deputy Mayor of Council
- d) elect the Leader on nomination of the Group or groups forming the administration of the Council (only required at an Annual meeting following ordinary local elections )
- e) appoint the Overview and Scrutiny Panels and such other Committees, Forums and Panels as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions. The Council shall appoint the Chairman and Vice Chairman to each body appointed under this rule with the exception of the Appeals Panel, which shall elect a Chairman from the Panel Membership at the start of each Panel Meeting for the duration of that meeting, and the Overview and Scrutiny Panels, which shall elect a Chairman and Vice Chairman from its membership. The Council shall approve the establishment, terms of reference, membership and operation of any Committee, Forum or Panel, working party or similar body. The life of such Panel etc. will be clearly prescribed and can only be extended by resolution of the Council.
- f) if required, agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree.
- g) consider any business set out in the notice convening the meeting.

### **C1.2 Selection of Councillors on Committees, Forums, Panels and Outside Bodies**

At the annual meeting, the Council meeting will:

- i) decide which Committees, Forums and Panels to establish for the municipal year.
- ii) decide the size and terms of reference for those Committees, Forums and Panels.

- iii) decide the allocation of seats and substitutes, if any, to political groups in accordance with the political balance.
- iv) appoint those Committees, Forums and Panels and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

Appointments to the Berkshire Fire Rescue Authority are subject to the rules of political balance where the Council appoints 3 or more members to the fire authority<sup>1</sup>.

## **C2 ORDINARY MEETINGS**

C2.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council. Ordinary meetings, aside of the Budget meeting, will:

- i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii) receive apologies for absence;
- iii) approve the minutes of the last meeting;
- iv) receive any declarations of interest from Members;
- v) receive any announcements from the Mayor;
- vi) receive questions from, and provide answers to, the public under C9;
- vii) receive petitions pursuant to the Petitions Procedure;
- viii) deal with any business from the last Council meeting;
- ix) receive reports from the Cabinet and the Council's Committees, Forums and Panels and receive questions and answers on any of those reports;
- x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations, if any;
- xi) receive questions from Members under C11;
- xii) consider Motions from Members under C12;
- xiii) receive any confidential reports from the Cabinet and the Council's Committees, Forums and Panels and receive questions and answers on any of these reports;
- xiv) consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of any of the Overview and Scrutiny Panels for debate;
- xv) receive reports from officers of the Council.

C2.2 **Varying the order of business under C2.1.**

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<sup>1</sup> Section 15, s21(1)(f) and Schedule 1 part 1(c) of the Local Government and Housing Act 1989

Business falling under items C2.1 i) - v) inclusive shall not be displaced but, subject to that provision, the order of business under C2.1 may be varied by a resolution passed on a Motion (which need not be in writing) moved and seconded in accordance with these rules, such a Motion shall be moved, seconded and put to the vote without discussion, other than an explanation for the proposed variation to the order of business set out in C2.1. A Motion carried under this Rule shall override any other Rule or provision in relation to the order of business.

C2.3 To ensure Members are able to properly consider the budget at the Budget meeting, only items of business relating to the budget will be considered at this meeting, unless otherwise agreed by the Mayor.

### **C3 EXTRAORDINARY MEETINGS**

#### **C3.1 Calling extraordinary meetings**

Those listed below may request the Head of Governance to call Council meetings in addition to ordinary meetings:

- i) The Council by resolution.
- ii) The Mayor.
- iii) The Monitoring Officer.
- iv) Any 5 Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting, or has failed to call a meeting to be convened within 21 days, within 7 days of the presentation of the requisition (maximum of 28 days between request and date of the meeting).
- v) The Mayor, at the request of the Leader and Cabinet.
- vi) An Overview and Scrutiny Panel in accordance with terms of Part 4).

#### **C3.2 Business**

Where the extraordinary meeting has been called by Members of the Council the only business to be transacted at the Meeting shall be the business specified in the Notice of Meeting as specified in the Members requisition submitted to the Mayor under 3.1 (iv) above and such business as the Mayor in his/her discretion shall allow.

#### **C3.3 Additional Items**

No additional items may be added to the Agenda for extra-ordinary meetings after the Notice of Meeting has been issued

### **C4 APPOINTMENT OF SUBSTITUTE MEMBERS OF PANELS**

#### **C4.1 Allocation**

For Committees, Forums and Panels the Council on allocating seats shall also permit Substitute Members to attend such meetings on the same political balance as applied to the Substantive Members on the relevant Committee, Forum or Panel.

A Substitute Member will be able to act as a Substitute for one meeting only, the Substantive Member will automatically replace the Substitute at the next Panel, Forum or Committee meeting, unless the Substitute is re-appointed in accordance with C4.4.

#### **C4.2 Numbers**

For each Committee, Forum or Panel, the Council will appoint up to the total entitlement to seats for each political group in such proportions as that group holds substantive seats on the Council.

#### **C4.3 Powers and duties**

Substitute Members will have all the powers and duties of any ordinary Member of the Committee, Forum and Panel but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### **C4.4 Substitution**

Substitute Members may attend meetings in that capacity only:

- i) To take the place of the ordinary Member for whom they are designated substitute for their meeting;
- ii) Where the ordinary Member will be absent for the whole of the meeting; if the ordinary Member arrives after the meeting has started, the substitute member shall continue and the ordinary Member shall be present as a non-member of that body.
- iii) After notifying the clerk to the meeting by 12.00 noon on the day of the meeting that a substitute is required; to enable Democratic Services to contact potential substitutes in advance of the meeting. If notified after 12 noon on the day of the meeting, the responsibility to identify a substitute falls to the relevant Group. The notification of the named substitute must be provided to the clerk ideally before the meeting begins; at minimum under the item 'Apologies for Absence' at the start of the meeting.

### **C5 TIME AND PLACE OF MEETINGS**

C5.1 In accordance with the programme of meetings for the municipal year as agreed by full Council the time and place of ordinary meetings will

be determined by the Head of Governance or Monitoring Officer and notified in the Notice of Meeting (the summons).

- C5.3 If the summons for an ordinary meeting has yet to be issued then the Head of Governance or Monitoring Officer, in consultation with the Members of the committee, can decide to either cancel or postpone the meeting, or amend the meeting date, start time or venue (including moving to a virtual meeting if appropriate). The reason for the cancellation, postponement or amendment will be communicated to all Members of the committee.
- C5.4 Once a summons for a meeting has been issued, there is no provision for meetings to be cancelled or postponed unless the circumstances make it impossible for the meeting to be held. Amendments to the start time or venue should also only be taken if the meeting could not go ahead unless a change is made. The Head of Governance or Monitoring Officer will make this determination, in consultation with the Chairman of the committee. The reason for the cancellation, postponement or amendment will be communicated to all Members of the committee.
- C5.5 Extraordinary meetings of full Council will be determined as detailed in Paragraph C3. The arrangements for extraordinary meetings of other committees will be determined by the Head of Governance or Monitoring Officer in consultation with the Chairman of the committee.

## **C6 NOTICE OF AND SUMMONS TO MEETINGS**

- C6.1 The Head of Governance will give notice to the public of the time and place of any meetings in accordance with the Access to Information Rules. At least **five clear working days** before a meeting, the Head of Governance will send a Notice of Meeting including a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence or send it by e-mail. The Notice of Meeting will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.
- C6.2 Where, by reason of special circumstances, the Mayor is of the opinion that an item should be considered at a meeting as a matter of urgency, the requirement to give five clear days shall not apply and any Motion relating to such an item will be treated as a Motion without Notice under C13(s).



**C7 CHAIRMAN OF MEETING**

C7.1 The Mayor or any person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee, Forum and Panel meetings, references to the Mayor or Chairman also include the Chairman of Committees, Forums and Panels.

C7.2 The Mayor or any person presiding as Chairman over a meeting shall conduct and make decisions in relation to the business of the meeting always in an objective, non-political and reasonable manner with the intention of achieving the efficient and orderly conduct of the meeting, facilitating full and effective debate and decision-making by the Council with the overriding aim of promoting confidence in the Council by the public.

C7.3 The Mayor may consult any officer present with the aim of compliance with Rule C7.2 and the Members in attendance shall not speak during such consultation. The Mayor or any person presiding as Chairman shall (subject to Rule C27) have the final decision on any rule or procedure in this Part including compliance with Rule C7.2.

**C8 QUORUM**

The quorum of a meeting will be **one quarter** of the whole number of Members appointed to the relevant body unless otherwise specified in that body's Terms of Reference. During any meeting if the Mayor or Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at time and date fixed by the Mayor or Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**C9 QUESTIONS BY THE PUBLIC****C9.1 General**

Members of the public may ask questions of

- i. the Leader; or
- ii. a Cabinet Member;

at ordinary meetings of the Council for which the Council will set aside a period of **30 minutes**, which may be extended at the discretion of the Mayor in exceptional circumstances. Public questions at the meeting at which the council budget is considered must relate directly to the budget proposals. Public questions are

permitted at Extraordinary meetings of the Council where such a question is directly related to an item on the Agenda.

#### **C9.2 Answering Questions**

Although the public may only direct questions to those Members in C9.1, the Member specified in C9.1 may request that another more appropriate Member of the Council answer the question, whether in whole or part, but only where the other Member has agreed and has communicated their agreement prior to the Meeting and the substitute Member can provide a more substantive reply to the question (for example, if the Member has a greater understanding of a ward issue or if it falls within the portfolio of the substitute Member).

Members with specific responsibilities cannot pass the question if it falls within their responsibility.

#### **C9.3 Order of questions**

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

#### **C9.4 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by email to the Head of Governance no later than midday, 7 clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council specified in C9.1 to whom it is to be put. The Mayor may, in his discretion, allow a question to be asked when the period of notice required has not been given, if he considers the matter to be urgent and that the Member receiving the question has agreed to answer the question.

If a question cannot be answered at the Meeting, then the questioner shall be offered the opportunity to raise the question in the next ordinary meeting of the Council or a written response provided. Any written response will be published by the Council as soon as provided.

The deadline for submission of questions for the Budget meeting and Extraordinary Meetings shall be decided by the Mayor, to enable members of the public to view the reports in the Part I agenda before submitting questions.

#### **C9.5 Number of questions**

At any one meeting no person may submit more than two questions.

**C9.6 Scope of questions**

The Head of Governance may reject a question if it:

- Is not about a matter for which the Council has a responsibility or which affects the Borough.
- Is defamatory, frivolous or offensive;
- Relates to a planning or planning enforcement matter or licensing application before it has been determined by a planning or licensing panel or by officers under delegated powers or by the court if subject to criminal or civil litigation..
- Relates to an appeal or review procedure that has not yet been concluded.
- Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- Requires the disclosure of confidential or exempt information.
- No question shall be longer than 60 words.
- The Head of Governance may, after consultation with the questioner and with the questioner's consent, amend the wording of the question for the purpose of clarification.

**C9.7 Record of questions**

The Head of Governance will maintain a register of all questions, which will be open to public inspection. Following the deadline for receipt of questions, a copy of the question will be sent immediately to the Member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

**C9.8 Response**

The Member who provides the response will do so in writing. The written response will be published as a supplement to the agenda by 5pm one working day before the meeting. The only exception to this process would be if an urgent question was accepted under C9.4 above and the timescales did not allow for a written response to be provided one working day in advance of the meeting.

**C9.9 Supplementary question**

A questioner who has put a question in writing may also put one supplementary question without notice to the Member who has replied to his or her original question. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the supplementary question on their behalf.

The supplementary question must arise directly out of the reply provided and shall not have the effect of introducing any new subject matter. The questioner shall be allowed up to 1 minute to put the

supplementary question. The Mayor may reject a supplementary question on any of the grounds in Rule 9.6 above. A Member verbally responding to a supplementary question shall be allowed up to **2 minutes** to do so. The supplementary question shall be put and answered without discussion

C9.10 No longer used

C9.11 No longer used

C9.12 **Reference of question to Cabinet, Committee, Forum or Panel**

No discussion will take place on any question, but any Member may move that a matter raised by a question be referred to Cabinet or the appropriate Committee, Forum or Panel. Once seconded, such a Motion will be voted on without discussion.

**C10 PETITIONS**

C10.1 Petitions will be received and considered by the Council in accordance with the Petitions Procedure in Part 7G.

C10.2 Any petition that contains at least 1500 signatories or petitioners may be reported to and debated at a meeting of the Full Council if requested by the petitioner organiser unless restricted by the terms of the Petitions Procedure This is then considered by the Council to be a 'Petition for Debate'.

C10.3 Petitions for Debate will be reported to the next convenient meeting of Council, as determined by the Mayor. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition, unless the Mayor agrees to do so. Only petitions relating to the budget will be considered at the Budget meeting. Such petitions, whether receiving over 1500 signatories or not, will be considered as part of the debate on the relevant budget item rather than as a separate 'Petition for Debate'. The petition organiser will retain the right to address the meeting for 5 minutes at the start of the item as per the Petitions Procedure.

C10.4 Petitions which do not relate to an ordinary item of business will be considered before the normal business of the Meeting and will be considered in the order in which they were received, unless the Mayor determines otherwise. The Mayor will determine the number of petitions that would be convenient to consider at any one meeting. A maximum of **30 minutes** will be allowed to consider each petition. The maximum time of **30 minutes** per petition can be overruled at the Mayor's discretion. The 30 minutes will begin immediately after the petition organiser has spoken.

C10.5 The relevant officer will include in the agenda for the meeting a report setting out the background to the issue. At the start of the item the petition organiser will be invited to address the meeting for up to **5 minutes**. The Mayor will then invite the relevant Cabinet Member to speak for up to **5 minutes**, including proposing any recommendation included in the covering report. The Mayor would then ask for the motion to be seconded. Motions without Notice (other than those detailed in C13) will not be allowed. The Mayor will then invite any relevant Ward Councillors present to address him/her on the matter for up to **5 minutes** each. The Mayor will then open the matter for debate among Members of the Council.

C10.6 Within 5 working days of the consideration of the petition by the Council, the Petitions Officer will notify the petition organiser of the decision if they were not present during the debate.

## **C11 QUESTIONS BY MEMBERS**

### **C11.1.1 On reports of Cabinet, Committees, Forums or Panels**

A Member of the Council may ask:

- i. the Leader; or
- ii. a Cabinet Member;

any question, without written or other notice, upon an item contained in a report of Council, Cabinet or a Committee, Forum or Panel, when that item is being received or is under consideration by Council at an ordinary Meeting.

C11.1.2 A Member may nominate another relevant Member of the Council to answer the question whether in whole or part but only where:

- (i) the other Member has agreed and has communicated their agreement prior to the Meeting and;
- (ii) the substitute Member can provide a more substantive reply to the question (for example, if the Member has a greater understanding of a ward issue or if it falls within the portfolio of the substitute Member); and
- (iii) the Member asking the question has agreed prior to the meeting that the substitute may provide the reply.

Members with specific responsibilities cannot pass the question if it falls within their responsibility.

### **C11.2.1 Questions on notice at Council**

Subject to Rule C11.4, a Member of the Council may ask a written question on any matter in relation to which the Council has powers or which affects the Borough, to:-

- i. the Leader; or

ii. a Cabinet Member;

at ordinary meetings of the Council, other than the meeting at which the budget is considered, for which the Council will set aside a period of **30 minutes**, which may be extended at the discretion of the Mayor in exceptional circumstances.

Member questions directly relating to the budget at the budget meeting, or asked at Extraordinary meetings of the Council, fall under C11 1.1 above and would therefore be dealt with during the item in question.

C11.2.2 A Member may nominate another relevant Member of the Council to answer the question whether in whole or part but only where:

- (i) the other Member has agreed and has communicated their agreement prior to the meeting and;
- (ii) the substitute member can provide a more substantive reply to the question (for example, if the Member has a greater understanding of a ward issue or if it falls within the portfolio of the substitute Member); and
- (iii) the Member asking the question has agreed prior to the meeting that the substitute may provide the reply.

Members with specific responsibilities cannot pass the question if it falls within their responsibility

C11.3 **Questions on notice at Panels, Committees and Forums**

Subject to Rule C11.4 any Member may ask the Chairman of a Committee, Forum or Panel a question on any matter which falls within the terms of reference of that Committee, Forum or Panel.

C11.4 **Notice of questions**

C11.4.1 A Member may only ask a question under Rule C11.2 or C11.3 if either:

- a) they have given at least 7 clear working days' notice in writing of the question to the Head of Governance; or
- b) the question relates to urgent matters and is raised by the Leader, Opposition Leader or Deputy Leaders and they have the consent of the Member to whom the question is to be put. The content of the question shall be given to the Head of Governance by 10.00 hours on the day of the meeting;

C11.4.2 No Member (other than the Leader, Opposition Leader or Deputy Leaders under C11.4.1(b) above) shall submit more than 2 questions under Rule C11.2 or C11.3 to a single Council or other meeting;

C11.4.3 Every question shall be put and answered without discussion; if the Member is unable to attend the meeting to put the question, the Member can nominate another Member to ask the question on his/her behalf or give notice to the Head of Governance to hold the question over to the next meeting.

C11.4.4 Each question must not exceed 60 words and where such a question exceeds the limit or the question is not clear, the Head of Governance may with the consent of the Member who submitted the question, amend the wording for clarification or to bring it within the 60 word limit.

C11.5 The Head of Governance may reject a question if it:

- Is not about a matter for which the Council has a responsibility or which affects the Borough.
- Is defamatory, frivolous or offensive;
- Relates to a planning or planning enforcement matter or licensing application before it has been determined by a planning or licensing panel or by officers under delegated powers or by the court if subject to criminal or civil litigation..
- Relates to an appeal or review procedure that has not yet been concluded
- Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- Requires the disclosure of confidential or exempt information.
- No question shall be longer than 60 words.

The Head of Governance may, after consultation with the questioner and with the questioner's consent, amend the wording of the question for the purpose of clarification.

C11.6 **Supplementary question**

A Member who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question.

The supplementary question must arise directly out of the reply provided and shall not have the effect of introducing any new subject matter. The questioner shall be allowed up to 1 minute to put the supplementary question. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above.

C11.7 **Response**

The Member who provides the response will do so in writing. The written response will be published as a supplement to the agenda by 5pm one working day before the meeting. The only exception to this process would be if an urgent question was accepted under

C11.4.1b) above and the timescales did not allow for a written response to be provided one working day in advance of the meeting.

All supplementary questions will be responded to verbally at the meeting. A Member verbally responding to a supplementary question shall be allowed up to **2 minutes** to do so.

## **C12 MOTIONS ON NOTICE**

### **C12.1 Notice**

Except for Motions which can be moved without notice under Rule C13, written notice of every Motion, signed by the Member proposing it or sent by email by the Member proposing it must be delivered to the Head of Governance not later than 12 noon, 7 clear working days immediately preceding the next ordinary Council Meeting. These will be dated, numbered in the order they are received and entered in a register open to public inspection. Member motions on notice will not be considered at the Annual meeting or the meeting at which the budget is considered.

### **C12.2 Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.

### **C12.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Royal Borough and shall neither contain more than three related proposals nor be preceded by more than 60 words. No Motion shall be accepted or debated which, in the opinion of the Mayor:

- is not about a matter for which the Council has a responsibility or which affects the Borough;
- is defamatory, frivolous or offensive;
- relates to a planning or planning enforcement matter or licensing application before it has been determined by a planning or licensing panel or by officers under delegated powers or by the court if subject to criminal or civil litigation..
- Relates to an appeal or review procedure that has not yet been concluded
- .
- is substantially the same as a motion which has been put to any meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information.



The Head of Governance may with consent of the Member who has submitted a Notice of Motion, amend the wording of the Motion either for the purpose of clarification or to ensure that it is not offensive or frivolous.

**C12.4 Number of Motions**

A Member of the Council shall have no more than one Notice of Motion for any single Council meeting.

A maximum period of 30 minutes will be allowed for each Motion to be moved, seconded and debated, including dealing with any amendments. At the expiry of the 30-minute period debate will cease immediately, the mover of the Motion or amendment will have the right of reply before the Motion or amendment is put to the vote

**C12.5 Motions not Moved**

If a Motion is not moved it shall, unless postponed by resolution of the Council, be treated as abandoned and shall not be moved without fresh notice. Any Member who has not submitted that Notice of Motion may in the event of the absence or inability of the Member who has submitted the Motion, move the Motion.

**C12.6 Motion of No Confidence**

Motions of no confidence in the Leader, a Cabinet Member, any Member holding a Special Responsibility, or any Vice Chairman of an Overview and Scrutiny Panel must be signed by ten Members and must be delivered to the Head of Governance no later than 10.00am on the seventh working day before the meeting (excluding the day of the meeting). The wording of the Motion shall be "That this Council has no confidence in the [insert relevant post]"

No amendments will be allowed to the Motion at the meeting where the matter is discussed.

Motions of no confidence can be accepted at any Council meeting, including Annual and Budget Council meetings.

If following a Motion of no confidence the majority of Members of the Council vote to remove the Leader or any Member with a Special Responsibility (other than a Cabinet Member, as the power to remove a Cabinet Member is within the remit of the Leader), a Motion, under Rule 13(t), to nominate a new Leader or Member with a Special Responsibility may be moved without notice. If a Motion to nominate is not moved then the election of the Leader of Council or re-appointment to the role with the Special Responsibility will take place at the next Council meeting.

If a majority of Members of the Council agree a motion of no confidence in a Chairman or Vice Chairman of an Overview and Scrutiny Panel, the Panel will be required to consider the appointment of a Chairman or Vice Chairman (as appropriate) at the next scheduled meeting of the Panel.

### **C13 MOTIONS WITHOUT NOTICE**

The following Motions may be moved without notice:

- a) to appoint a Chairman of the meeting at which the Motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;
- e) to appoint a Committee, Panel or Member arising from an item on the Notice of the meeting;
- f) to receive reports or adoption of recommendation of Cabinet, Committee, Forums, Panel or Officers and any resolutions following from them;
- g) to withdraw a Motion;
- h) to amend a Motion;
- i) to proceed to the next business;
- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting including under rule C25;
- m) to suspend a particular Council procedure rule;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) to not hear further a Member named under Rule C21.5 or to exclude them from the meeting under Rule C21.6;
- p) to give the consent of the Council where its consent is required by this Constitution;
- q) to extend the time limit for speeches;

- r) to vote on the Mayor's ruling under Rule C27.
- s) to consider an urgent item under Rule C6.2
- t) to appoint a new Leader or to a role with a Special Responsibility after a vote of no confidence has passed under Rule C12.6

## **C14 RULES OF DEBATE**

### **C.14.1 No speeches until Motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the Motion has been seconded.

### **C14.2 Right to require Motion in writing**

Unless notice of the Motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

### **C14.3 Secunder's speech**

When seconding a Motion or amendment, a Member may reserve their speech until later in the debate.

### **C14.4 Length and content of speeches**

C14.4.1 Other than debate for the annual budget in rule C14.4.3, a Member shall not speak for more than **5 minutes**.

C14.4.2 A member proposing and seconding a Motion or a recommendation of amendment to a Motion shall not speak for more than **5 minutes**. The Member proposing the motion may speak for a further **5 minutes** when exercising a right of reply.

C14.4.3 For the **annual budget debate** the Member proposing the adoption of the budget and the Opposition spokesman shall each be allowed to speak for **10 minutes** to respectively propose the budget and respond to it. The Member proposing the budget may speak for a further five minutes when exercising a right of reply.

C14.4.4 The content of speeches must be directed to the question or motion under discussion or to a personal explanation or point of order.

C14.4.5 The content of speeches must be relevant to the issue in question and shall enable the Member to argue reason or persuade other Members of the strength or validity of their view or that their viewpoint is the correct decision.

C14.4.6 Members shall stop speaking where in the opinion of the Mayor (in consultation with the Monitoring Officer) considers that the content

of the speech does not have any relevancy to the matter of the debate or the content breaches the Members' Code of Conduct.

C14.4.7 Members shall avoid repetition of statements or views expressed previously in the debate. Members should treat other Members, officers and the public with respect and courtesy and avoid improper and/or offensive remarks. The Mayor may require a Member making remarks the Mayor has judged offensive or improper to withdraw them.

C14.5 **When a Member may speak again**

A Member who has spoken on a Motion may not speak again whilst it is the subject of debate, except:

- a) to speak once on an amendment moved by another Member;
- b) to move a further amendment if the Motion has been amended since he/she last spoke;
- c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d) In exercise of a right of reply;
- e) On a point of order; and
- f) By way of personal explanation.

C14.6 **Amendments to Motions**

- a) An amendment to a Motion must be relevant to the Motion and will either be:
  - i) to refer the matter to an appropriate body or individual for reconsideration;
  - ii) to leave words out;
  - iii) to leave out words and insert or add others;
  - iv) to insert or add words;

as long as the effect of ii) to iv) is not to negate the purpose of the Motion or to introduce a new proposal unrelated to the Motion.

- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, provided the Mayor may permit two or more amendments to be discussed (but not voted on) together if in his/her opinion this would facilitate the proper conduct of the Council's business.

- c) If an amendment is not carried, other amendments to the original Motion may be moved.
- d) If an amendment is carried, the Motion as amended takes the place of the original Motion. This becomes the substantive Motion to which any further amendments are moved.
- e) After an amendment has been carried, the Mayor will read out the amended Motion before accepting any further amendments, or if there are none, put it to the vote.
- f) Amendments to proposals contained within the annual budget report must follow a process to be set out in advance of the meeting by the Chief Finance Officer. This will include details of any proposed amendments being submitted in writing to the Finance team in advance of the meeting to ensure sufficient time to assess the financial consequences of any such proposals.

#### **C14.7 Alteration of Motion**

- a) A Member may alter a Motion of which he/she has given notice if the motion has not yet formally be moved.
- b) A Member may alter a Motion which he/she has moved (with or without notice) with the consent of both the meeting and the seconder. The meeting's consent will be voted on without discussion.
- c) Only alterations which could be an amendment may be made.

#### **C14.8 Withdrawal of Motion**

A Member may withdraw a Motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be voted on without discussion. No Member may speak on the Motion after the mover has asked permission to withdraw it unless permission is refused.

#### **C14.9 Right of reply**

- a) The mover of a Motion has a right to reply at the end of the debate on the Motion, immediately before it is put to the vote. The time limit for a right of reply will be 5 minutes maximum.
- b) If an amendment is moved the mover of the original Motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c) The mover of the amendment has a right of reply to the debate on his or her amendment, immediately after b) above and immediately prior to the amendment being put to the vote.

**C14.10 Motions which may be moved during debate**

When a Motion is under debate, no other Motion may be moved except the following procedural Motions:

- a) to withdraw a Motion;
- b) to amend a Motion;
- c) to proceed to the next business;
- d) that the question be now put to the vote;
- e) to adjourn a debate;
- f) to adjourn a meeting;
- g) to extend the time limit for speeches;
- h) to exclude the public and press in accordance with the Access to Information Rules;
- i) to not hear further a Member named under Rule C21.5 or to exclude them from the meeting under Rule C21.6;
- j) to vote on the Mayor's ruling under Rule C27.

**C14.11 Closure Motions**

- a) A Member who has not previously spoken in the debate may move, without comment, any of the following Motions at the end of a speech of another Member:
  - i) to proceed to the next business;
  - ii) that the question be now put to the vote;
  - iii) to adjourn a debate; or
  - iv) to adjourn a meeting.
- b) If a Motion to proceed to next business is seconded, the Mayor will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.
- c) If a Motion that the question be now put to vote is seconded, the Mayor will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a Motion to adjourn the debate or to adjourn the meeting is seconded, the Mayor will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply.

**C14.12 Point of order**

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

**C14.13 Personal explanation**

A Member may make a personal explanation at any time with the permission of the Mayor. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The time limit for personal explanations shall be one minute. The ruling of the Mayor on the requirement of a personal explanation will be final.

**C15 Not used**

**C16 PREVIOUS DECISIONS AND MOTIONS**

**C16.1 Motion to rescind a previous decision**

A Motion or amendment which has the effect or intention to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least fifteen Members. (In applying this Rule C16.1 and Rule C16.2 to Committees, Forums and Panels, the Motion must be signed by at least 1/3<sup>rd</sup> of the Members of the relevant Committee, Forum or Panel.) This rule does not prevent the relevant proper officer (or Monitoring Officer) from bringing a motion to the attention of the Council, Committee, Forum or Panel.

**C16.2 Motion similar to one previously rejected**

A Motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least twenty Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

**C16.3 Similar items on Council Agenda**

Where two items being recommended or proposed as Motions appear on an agenda, or where two or more items appear to relate to the same issue, one of which would have the effect or intention of rescinding the other, the following procedure will be adopted:-

- i) The Mayor will put to the vote, without debate, that the order of business should be varied under Rule C2.2 to allow the items

to be debated together but voted upon separately, the order of matters debated and put to the vote will be determined by Council. If the vote is carried, he/she will specify the order of speeches proposing, seconding and exercising the right of reply to be followed.

- ii) If the vote is not carried, the items will be put to the Council strictly in accordance with C2.1. When a second or subsequent item is to be debated and it would have the effect or intention of rescinding a resolution passed earlier in the Meeting, it shall not be debated but shall be deemed to have been rejected and thereafter Rules C16.1 and C16.2 will apply.

## **C17 VOTING**

### **C17.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put. The Mayor may, at any stage in the process, exercise his second or casting vote as set out in C17.2.

### **C17.2 Mayor's casting vote**

C17.2.1 If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There shall be no restriction on how the Mayor chooses to exercise his second or casting vote.

C17.2.2 Where the Mayor has voted on the proposition which is tied, he may exercise a second vote.

C17.2.3 Where the Mayor has not voted on the proposition which is tied, he may exercise a casting vote.

C17.2.4 If the Mayor declines to exercise a second or casting vote, the proposal the subject of the vote shall be rejected, subject to C17.1 above.

### **C17.3 Recording of Votes**

C17.3.1 Immediately before a vote the Mayor shall ask the Members whether a named vote is required.

C17.3.2 Unless a named vote is requested, the Mayor will take the vote by a show of hands or if there is no dissent, by the affirmation of the meeting.

C17.3.3 If requested by any **5** Members the mode of voting at meetings of the Council shall be via a named vote. The clerk will record the names and votes of those Members present and voting or abstaining and include them in the Minutes of the meeting.



- C17.3.4 Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- C17.3.5 The Mayor shall ascertain the numbers voting for or against any motion and his/her decision as to the result shall be conclusive.
- C17.3.6 The result of the vote will be announced to the meeting.
- C17.3.7 A named vote will always be required:
- i) on any business relating to approving the annual budget, budget amendments, setting the council tax or issuing precepts at Council meetings and;
  - ii) For any decisions made at Development Management Panels
- C17.3.8 In relation to meeting of other Panels, Subcommittees or Forums, a named vote shall be called if requested by any 2 voting Members.

#### C17.4 **Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### C18 **MINUTES**

#### C18.1 **Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. Only the accuracy of the minutes can be discussed.

#### C18.2 **No requirement to sign minutes of previous meeting at an Extraordinary Meeting or at the Annual Meeting**

Where an Extraordinary Meeting has been called under paragraph 3 of Schedule 12 of the Local Government Act 1972 or the Annual Meeting has been held, and either would be the next meeting for the purpose of A18.1, then the minutes will be considered at the next following meeting (after the Extraordinary Meeting or the Annual Meeting, as the case may be) and that meeting shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

#### C18.3 **Form of minute**

Minutes will contain all Motions and amendments in the exact form and order the Mayor put them.

## **C19 RECORD OF ATTENDANCE**

The clerk will ensure a record of attendance, for those attending in-person and virtually, is taken.

## **C20 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 8E of this Constitution or Rule C22 (Disturbance by Public).

## **C21 MEMBERS' CONDUCT**

### **C21.1 Member wishing to Speak**

A Member wishing to speak shall indicate by raising his/her hand and shall speak when called upon to do so by the Mayor. When called the Member shall stand when speaking and shall address The Mayor using the form 'Mr Mayor' or 'Madam Mayor' as appropriate. The Members shall speak of each other and of Officers by their respective titles.

### **C21.2 Standing to speak**

When a Member speaks at full Council they must, unless the Mayor in his/her discretion provides otherwise, stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **C21.3 Conduct during Speeches**

When a Member speaks then all other Members shall not speak and will remain silent unless requested to speak by the Mayor. Members should treat other Members with respect and courtesy and avoid improper and/or offensive remarks or actions. The Mayor may require a Member making remarks or actions the Mayor has judged offensive or improper to withdraw them.

### **C21.4 Mayor standing or using his gavel**

When the Mayor stands during a debate or uses his/her gavel and invokes this Rule, any Member speaking at the time must stop and sit down. The meeting must be silent.

**C21.5 Member not to be heard further**

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further. If seconded, the Motion will be voted on without discussion.

**C21.6 Member to leave the meeting**

If the Member continues to behave improperly after such a Motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the Motion will be voted on without discussion.

**C21.7 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

**C22 DISTURBANCE BY PUBLIC****C22.1 Removal of Member of the public**

If a Member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

**C22.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

**C23 FILMING, RECORDING AND PHOTOGRAPHY AT COUNCIL MEETINGS**

C23.1 The Council supports the principle of transparency and encourages the filming, recording and photographing of meetings open to the public. This will be permitted in accordance with the Filming and Recording Protocol in Part 7H.

**C24 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES****C24.1 Suspension**

All of these Council Rules of Procedure except Rule C17.4 and C18.2 may be suspended by Motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

**C24.2 Amendment**

Any Motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

**C25 DURATION OF MEETINGS**

C25.1 Unless the majority of Members present vote for the meeting to continue, any meeting of the Council, its Committees, Forums, Panels and Sub-Committees, together with meetings of the Cabinet and its Sub-Committees, which commence at **7.30pm**, and that has not concluded by **10.00pm** will adjourn immediately at the conclusion of the agenda item then under discussion. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

C25.2 For all meetings of the Council, its Committees, Forums, Panels and Sub-Committees, together with meetings of the Cabinet and its Sub-Committees, that commence prior to 7.30pm,, rule C25.1 above shall apply where the meeting has not concluded by **9.30pm**.

**C26 APPLICATION TO COMMITTEES, FORUMS, PANELS AND SUB-COMMITTEES**

C26.1 All of the Council Rules of Procedure apply to meetings of the Council. None of the rules apply to meetings of the Cabinet. Only Rules C4-8; C11 - 20 (but not Rule 14.4 and 14.5 (so far as they apply to length of speeches and speaking only once in the debate)); C21 - 28 (but not Rule C21.2) and C30 - 31 apply to meetings of Committees, Forums and Panels. (See Appendix to these Rules.)

C26.2 Voting at Committee, Forum and Panel meetings shall be as set out in rule C17.3 of these procedure rules.

C26.3 In the minutes of Panels, Forums and Committees it shall not be necessary for particulars of Motions and amendments preceding the resolution eventually carried to be recorded.

**C27 INTERPRETATION OF COUNCIL PROCEDURE RULES**

The ruling of the Mayor, on the advice of the Head of Governance, as to the construction or application of any of the Council Procedure Rules or as to proceedings of the Council may only be challenged by a Motion under Rule C13) moved and seconded in accordance with these rules. Such a Motion shall be moved, seconded and put to the vote without discussion, other than an explanation by the proposer for the Motion being proposed.

**C28 SEATING ARRANGEMENTS**

The Head of Governance shall settle and publish seating plans for meetings of the Council.

## **C29 MEMBERSHIP OF COMMITTEES, FORUMS AND PANELS**

C29.1 The maximum number of Members to serve on the Cabinet is set out in Article 6 of the Constitution. Membership of other Panels, Forums and Committees is as set out in Parts 4 and 6 of the Constitution. Except where authorised by statute or set out elsewhere in the Constitution the quorum specified in C8 shall apply, being rounded up to the nearest whole number.

C29.2 Subject to the Members' Code of Conduct, any Member of the Council may attend any formal meeting of a Panel, Forum or Committee of which he/she is not a Member and, subject to prior approval of the Chairman, may speak but not vote at such meeting, providing this right may not be exercised:

- i) When a Committee, Forum or Panel is sitting in a judicial or quasi-judicial role, e.g. as an Appeals Panel.
- ii) When a Committee, Forum or Panel is considering a confidential matter, i.e. press and public are excluded, the Member will be presumed to be able to make a real contribution to the decision-making.
- iii) When the Cabinet is not a public Cabinet meeting.
- iv) When the meeting is a briefing meeting and at which no decision will be taken.

Cabinet Members may attend meetings of the Overview and Scrutiny Panels but are only entitled to answer questions put to them by the Panel or to respond to call-in of a decision within their area of responsibility.

C29.3 Any Member of the Council may attend public meetings (Part I meetings) of Cabinet. A Member may only attend private meetings (Part II meetings) of Cabinet when invited to do so by the Leader (or chairman of the meeting in question).

C29.4 No Member may be permitted to serve as a member or a substitute member of any regulatory Panel/Committee without first having attended a training session, which must have been held since the Member was last elected. For the purpose of this rule, regulatory panels/committees are any Development Management Committee, Licensing Panel or Appeals Panel. For Area Development Management Committees, the mandatory training must take place on an annual basis.

C29.5 No Member of the Cabinet can be a Member of an Overview and Scrutiny Panel.

C29.6 Any vacancy on a Forum, Panel or Committee caused as a result of the Member no longer being a Councillor or as a result of that Member notifying the Head of Governance in writing that they have resigned their Membership of that Forum, Panel or Committee shall be reported to the next meeting of the Council to enable the vacancy to be filled in accordance with political balance requirements as appropriate.

### **C30 CHAIRMANSHIP**

C30.1 Whenever the Chairman or Vice-Chairman of a Forum, Panel or Committee shall cease to hold office, the vacancy so caused shall be filled at the next meeting of the Council with the exception of the individual Appeals Panels which will appoint a Chairman amongst themselves for each meeting and Overview and Scrutiny Panels, who will appoint a Chairman or Vice Chairman for the remainder of the municipal year at their next meeting, in accordance with C1.1.

C30.2 All other Forums, Panels and Committees which consist of Members of the Council and other persons shall have a Member of the Council as Chairman unless the Council shall agree otherwise.

C30.4 In the event of the Chairman being absent on any occasion, the Vice-Chairman shall take the Chair. In the event of both of them being absent, a Chairman for the time being may be appointed by the Members of that meeting.

### **C31 MATTERS AFFECTING PERSONS EMPLOYED**

C31.1 No matter shall be raised at any meeting of the Council or at any meeting of any Committee, Forum or Panel, which is directed at the personal performance or conduct of an individual employee of the Council unless provided under the Terms of Reference for the Committee, Forum or Panel or where required by the Officer Employment Procedure (Part 8B).

C31.2 If any matter arises at any meeting of the Council, Cabinet, Forum, Committee or Panel as to the appointment, promotion, dismissal, salary, superannuation or conditions of service or as to the performance or conduct of any person employed by the Council such matter shall not be the subject of any discussion until a motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the public has been put and carried.

## **Appendix**

### **Rules which apply to Committees, Forums, Panels and Sub-Committees (Rule C26)**

- C4 Appointment of Substitute Members of Panels
- C5 Time and place of meeting
- C6 Notice of and summons to meetings
- C7 Chairman of meeting
- C8 Quorum
- C11 Questions by Members
- C12 Motions on notice
- C13 Motions without notice
- C14 Rules of debate but not Rules C14.4 and C14.5
- C16 Previous decisions and motions
- C17 Voting
- C18 Minutes
- C19 Exclusion of public
- C21 Members' conduct but not Rule C21.2
- C22 Disturbance by public
- C23 Filming, recording and photography at Council Meetings
- C24 Suspension of Rules
- C25 Duration of Meetings
- C26 Application
- C27 Interpretation
- C29 Membership of committees and panels
- C30 Chairmanship
- C31 Members affecting persons employed

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# **PART 3 - THE EXECUTIVE / CABINET**

## **A - RESPONSIBILITIES AND PROCEDURE RULES FOR CABINET**

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## **A.1 WHAT CAN CABINET DECIDE?**

### **A1.1 The Role Of Cabinet**

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Authority, whether by law or under this Constitution.

### **A1.2 Key Decisions**

All 'key decisions', as set out in the Forward Plan, will be taken by the Cabinet, a sub-committee of Cabinet, an individual Cabinet member, or officers acting under delegated powers. 'Key decisions' are defined in Part 1 B Article 12.3b).

## **A.2 HOW DOES THE CABINET OPERATE?**

### **A2.1 Who may make executive decisions?**

The Leader will decide how the arrangements for the discharge of executive functions are to be exercised from time to time as appears necessary. The Leader may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a sub-committee of the Cabinet;
- iii) an individual Cabinet Member of the Cabinet;
- iv) an Officer;
- v) joint arrangements; or
- vi) another local authority

### **A2.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation. This will contain the following information about executive functions in relation to the coming year.

- i) The names, addresses and wards of the people appointed to the Cabinet by the Leader.
- ii) The extent of any authority delegated to the Cabinet Members individually, including details of the limitation on their authority.
- iii) The terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them.

- iv) The nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year.
- v) The nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

#### Substitute Cabinet Members

- vi) Any Cabinet Member can act as a substitute for another Cabinet Member at a meeting. The substitute Member will be able to act as a substitute for one meeting only. The ordinary Member will automatically replace the substitute at the next meeting unless the substitute is re-appointed as set out below.
- vii) Substitute Members will have all the powers and duties of any ordinary Member of the Committee, but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- viii) Substitute Members may attend meetings in that capacity only:
  - a) To take the place of the ordinary Member for whom they are designated substitute for that meeting;
  - b) Where the ordinary Member will be absent for the whole of the meeting;
  - c) After notifying the Democratic Services Manager by 12.00 noon on the day of the meeting of the intended substitution.

### **A2.3 Sub-delegation of executive functions**

- a) Where the Cabinet, a committee of the Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to joint arrangements or an Officer.
- b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet then the Cabinet may delegate further to a committee of the Cabinet or to an Officer.
- c) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### A2.4 **The Council's scheme of delegation and executive functions**

- a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Part 1B of this Constitution.
- b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Governance and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Head of Governance will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- c) Where the Leader seeks to withdraw delegation from a committee or panel, notice will be deemed to be served on that committee when he/she has served it on its Chairmen.

#### A2.5 **Conflicts of Interest**

- a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 7A of this Constitution.
- b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 7A of this Constitution.
- c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member or Officer, and should a conflict of interest arise, the function 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 Members' Code of Conduct in Part 7A of this Constitution.

#### A2.6 **Frequency of Cabinet meetings**

The frequency and timings of meetings of the Cabinet will be determined by the Leader. The Cabinet intends to meet at least **12** times per year at times to be agreed by the Leader at which it anticipates that the majority of business will be undertaken in public. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

**A2.7 Private Meetings of Cabinet**

A2.7.1 If the Cabinet is to hold a meeting in private and this means a meeting or part of a meeting during which the public are excluded, then at least 28 clear days before the private meeting it must:

- (a) make available at the Council offices a notice of intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.

The notice must include a statement of reasons for the meeting to be held in private.

Following that, at least 5 clear days before a private meeting, the Council must:

- (a) make available at its offices a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.

The notice must include a statement of the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representation.

A2.7.2 Where the date by which a private meeting must be held makes compliance with Rule A2.7.1 impracticable, the meeting may only be held in private where the Cabinet has agreement from:-

- (a) the Chair of the relevant Overview and Scrutiny Panel; or
- (b) if he/she is unable to act, the Chairman of the Council;
- (c) where there is no chairman, the vice-chairman of the Council

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Cabinet has obtained agreement to hold an urgent private meeting it must make available at the Council offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

A2.7.3 Only Cabinet Members are entitled to attend private meetings of the Cabinet and the Officers, who may be required to provide advice.

## A2.8 Meetings of Cabinet

Wherever possible, the Cabinet will meet in public and the provisions of the Access to Information Procedure Rules shall apply as set out in Part 8 E12 Application of Rules to the Cabinet. Other Members of the Council and the press and public may attend these meetings.

Zero Debate – The Chairman may propose items that do not need to be debated by Members. These should be non-contentious and where no member of the public has provided notice of the intention to speak on them. At least 24 hours before the meeting, the items in question shall be made available to the Head of Governance. These items will then be considered and disposed of en bloc, allowing the remainder of the meeting to focus and debate the issues that Members want to discuss.

Speaking - The Chairman may consider whether non-Cabinet Members may speak (but not vote) on any item under consideration by Cabinet, and may set out the protocol under which non-Cabinet Members will be given the opportunity to speak.

Public Speaking - Members of the public may address Cabinet or ask questions of Cabinet in respect of any Part I agenda item, provided notice of the intention has been given to the Head of Governance by 12 noon on the day of the meeting. Each member of the public will be allowed up to **3 minutes**, subject to the total time allowed for public comment or questions, not exceeding **9 minutes** per agenda item.

## A2.9 Quorum

The quorum for a meeting of the Cabinet shall be one quarter of the total number of Members of the Cabinet (including the Leader or nominated deputy) or 3 (including the Leader or nominated deputy) whichever is the larger. The quorum for a sub-committee of the Cabinet shall be fixed when the committee is established. Any Cabinet Member may act as a substitute for any substantive Member of a Cabinet in a Cabinet sub-committee.

## A2.10 Cabinet Decisions

- a) Executive decisions which have been delegated to the Cabinet as a whole will be taken by a meeting convened in accordance with the Access to Information Procedure Rules in Part 8 E of the Constitution.
- b) Where executive decisions are delegated to a sub-committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

**A2.11 Items on Cabinet Agenda**

The Head of Governance will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to 2 such items on any one agenda.

**A2.12 Items from Cabinet Members**

Any Member of the Cabinet 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 meeting of the Cabinet.

**A2.13 Items from Head of Paid Services / Monitoring Officer / Head of Finance**

The Head of Paid Services, the Monitoring Officer or Head of Finance may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Governance to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Head of Finance or Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

**A2.14 Notice of Items for Agenda**

In all cases above, there must be a written report to support the item available to the Cabinet at least five clear working days before the Cabinet meeting at which it is proposed to be considered, unless the Leader decides that a shorter period is acceptable on the grounds of urgency. If a key decision may be involved, the procedure set out in the Access to Information Procedure Rules at Part 8E of the Constitution shall be followed.

**A2.15 Cabinet Transformation Sub-Committee****Purpose**

Cabinet has delegated to the Sub-Committee the following functions:-



- To approve the Transformation Strategy and any subsequent amendments
- To approve any projects within the Strategy that would require Cabinet approval.
- To monitor progress on the delivery of the Transformation Strategy
- From time to time to report progress to Cabinet

#### Membership

The Sub Committee comprises the Leader of the Council and Cabinet Members as determined by the Leader, details of which are published on the council website.

The Sub Committee will be chaired by the Cabinet Member for Adult Social Care, Children's Services, Health and Mental Health

#### Quorum

The quorum for the Sub-Committee shall be 2. Any Cabinet Member may act as substitute for the substantive Cabinet members identified above.

#### Frequency

Quarterly, with additional meetings as required

#### Type

Committee of Cabinet

# **PART 3 - THE EXECUTIVE / CABINET**

## **B - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

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## **B – Budget and Policy Framework Procedure Rules**

### **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 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

- a) The Cabinet will publicise the proposed Framework by including in the forward plan published at the Council's offices and publicised by other methods – e.g. on the website, in local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of the initial proposals. The Chairmen of the relevant Overview and Scrutiny Panel will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. Where the proposals relate to the development of the plans set out in Article 4, the relevant Overview and Scrutiny Panel may wish to respond to the Cabinet during the consultation period. The relevant Overview and Scrutiny Panel may respond as part of the consultation process in respect of the preparation of the annual budget. The Cabinet will take any response from the relevant Overview and Scrutiny Panel into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's responses.
- c) Once the Cabinet has approved the firm proposals, the Head of Governance will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- f) The decision will be publicised and a copy shall be given to the Leader.
- g) The Leader will be informed by the Council of its objections to the draft plan or strategy and will give him instructions that the Executive shall reconsider

the proposals in light of the objections within 7 clear working days, starting with the day following the date the Leader received the instructions.

- h) The Leader may, within 7 clear working days:
- i) submit a revision of the proposals with the Executive's reasons for any amendments to the Council; or
  - ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the reasons for this;
  - iii) at the same time, the Head of Governance will be notified by the Leader of the position and shall, within 5 working days, call a Council meeting.
- i) The Council called in response to h) iii) above must, when:
- i) amending the draft plan or strategy or revised draft plan or strategy;
  - ii) approving for submission to the Government any plan or strategy or part; or
  - iii) adopting, with or without modification, the plan or strategy;
- take into account any amendments to the plan or strategy, the Executive's reasons for them, any disagreements the Executive has with the Council's objections and its reasons for this.
- j) The decision shall then be made public and shall be implemented immediately.
- k) An in-principle decision will automatically become effective 5 clear working days from the date of the Council's decision, unless the Leader informs the Head of Governance in writing within 5 clear working days that he/she objects to the decision becoming effective and provides reasons why.
- l) Where, before 11<sup>th</sup> March<sup>1</sup> in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:
- i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - ii) estimates of other amounts to be used for the purposes of such a calculation;
  - iii) estimates of such a calculation; or
  - iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992;
- and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph m).
- m) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph l) i), or issues a precept under Chapter IV of Part I of the Local Government

Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

- n) Where the Council gives instructions in accordance with paragraph m), it must specify a period of at least 5 working days, beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may:
- i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement; or
  - iii) at the same time, the Head of Governance will be notified by the Leader of the position and shall, within 5 working days, call a Council meeting.
- o) When the period specified by the Council, referred to in paragraph n) has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph l) i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:
- i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - ii) the Cabinet's reasons for that disagreement;
  - iii) any disagreement that the Cabinet has with any of the Council's objections; and
  - iv) the Cabinet's reasons for that disagreement;

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

- p) Paragraphs l) to o) shall not apply in relation to:
- i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.
- q) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in

accordance with Rules C5 and C6 of these Rules (viement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) Subject to the provisions of Rule C5 (viement) the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, 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 policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule C4 below.
- b) If the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Head of Finance as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule C4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) The Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the Council; and
  - ii) if the Chairman of the relevant Overview and Scrutiny Panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Council and the Chairman of the relevant Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be notified on the record of the decision. In the absence of the Chairman of the relevant Overview and Scrutiny Panel the consent of the Mayor, and in the absence of both, Deputy Mayor will be sufficient.

- b) 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 matter of urgency.

## 5. VIREMENT

- a) The provisions for virement are set out in Rules F1.10 – F1.19 of the Finance Rules. The rules are applied to virement between budgets and the levels delegated to officers are:
- Directors can vire up to £25,000 in respect of budgets under their control without the consent of the Head of Finance
  - The Head of Finance, in consultation (via email if appropriate) with the Corporate Leadership Team can vire from £25,000 up to £100,000 without consent of Cabinet
  - Cabinet can vire from £100,001 up to £500,000 without the consent of the Council.
- b) In each case the level of each virement is as specified in the Finance Rules. In addition virements from or to any one budget, shall not exceed the limit given out in the Finance Rules in any one financial year so that, for example, for any one budget head the totality of virements is capped at £500,000.

## 6. IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or Officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) 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.

## 7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a) Where at least (i) three members of the Council [one of whom must be a Member of the relevant Overview and Scrutiny Panel] or (ii) any five members of the Council, are of the opinion that an executive decision is, or, if made, would be contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then they shall receive advice from the Monitoring Officer and/or Head of Finance as appropriate at the Panel meeting to consider the call-in.



b) 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 Head of Finance is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the relevant Overview and Scrutiny Panel 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 consider the item at the next scheduled ordinary full Council or an extraordinary full Council meeting within 28 days if appropriate. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Head of Finance. The Council may either:

- i) endorse a decision or proposal of the executive 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
- ii) amend the Council's financial regulations or 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
- iii) Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Head of Finance.

c) Exceptions to this procedure:-

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- i) that the relevant Overview and Scrutiny Panel may only call-in two decisions per Cabinet meeting; and
- ii) any call-in can be invoked in respect to a decision only once.

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# **PART 4 - OVERVIEW AND SCRUTINY**

## **A - Purpose and Procedure Rules for Overview and Scrutiny**

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## **A1 ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

In accordance with the Local Government Act 2000 the Council must have at least one Overview and Scrutiny Committee.

The Council has established three Overview and Scrutiny Panels. The Terms of Reference for all Panels are specified in Part 4B.

Any Overview and Scrutiny Panel may appoint such sub-Panels as it considers necessary or appropriate to carry out, effectively, its functions. Each sub-Panel will be politically balanced, will produce Terms of Reference for agreement by the relevant Overview and Scrutiny Panel, including the period during which the sub-Panel shall meet, its membership and its proposals for investigation and reporting.

Any reference to an Overview and Scrutiny Panel in this Part shall mean any single Panel or a sub-Panel as appropriate. A reference to a Chairman shall mean any Vice Chairman when the Chairman is unavailable.

The three Overview and Scrutiny Panels meet in public, subject to the Access to Information rules, to discuss and make recommendations on the development of the Council's various plans and strategies, and on reports going to Cabinet and holds the Cabinet to account for its actions.

The Overview and Scrutiny Panels also have a key role in considering other matters of local concern not necessarily just within the Council's areas of responsibility but affecting the Royal Borough and its communities. Where included in the terms of reference the Overview and Scrutiny Panels also hold partner organisations to account.

In undertaking their role, the Overview and Scrutiny Panels will have the power to 'call-in' decisions of the Cabinet or any body or individual exercising executive powers.

The Corporate Overview and Scrutiny Panel will have responsibility for monitoring the budget allocated to Overview and Scrutiny each year.

Any Member of the Council may attend meetings of the Overview and Scrutiny Panels. Cabinet Members and Directors will be expected to attend when their Cabinet reports/proposals are being considered and will be entitled to participate (in a non-voting capacity) at the invitation of the Chairman.

At other times Cabinet Members will only be required to answer questions put by the Panel or to respond to call-in of a decision within their area of responsibility.

## **A2 WHO MAY SIT ON THE OVERVIEW AND SCRUTINY PANELS?**

Any Member, except Members of the Cabinet and the Mayor, may be a member of the Overview and Scrutiny Panels. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

A Member can only hold the position of Chairman or Vice-Chairman of one Panel.

## **A3 CO-OPTEEES**

### a) General

The Overview and Scrutiny Panels shall be entitled to appoint a number of people as non-voting co-optees.

### b) Education Representatives

The People Overview and Scrutiny Panel, when dealing with education matters, shall include in its membership the following voting representatives:

- a) one Church of England diocese representative;
- b) one Roman Catholic diocese representative;
- c) two parent governor representatives (One to represent the primary phase and one to represent the secondary phase).
- d) one representative from the Regional Schools Commissioner

This will apply when the People Overview and Scrutiny Panel or a sub-Panel of it, being part of the local education authority, and where the Panel's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. If the Panel deals with other matters, these representatives shall not speak or vote on those other matters, except so far as the Protocol on public speaking may apply to them.

Each education representative may appoint a substitute equivalent to their qualification criteria, who may attend meetings in that capacity only:

- i) To take the place of the ordinary co-opted representative;
- ii) Where the ordinary education representative will be absent for the whole of the meeting; if the ordinary education representative arrives after the meeting has started, the appointed substitute representative shall continue and the ordinary education representative shall be present as a non-member of that body.

- iii) After notifying the Head of Governance by 12.00 noon on the day of the meeting of the intended substitution.

c) Crime and Disorder

The Place Overview and Scrutiny Panel may, in accordance with The Crime and Disorder (Overview and Scrutiny) regulations 2009 co-opt additional members to serve on the Panel subject to:-

- i) the person co-opted to serve shall not be entitled to vote on any particular matter, unless the Panel so determines.
- ii) the co-opted person's membership may be limited to the exercise of the Panel's powers in relation to Crime & Disorder.

The co-opted person shall not be a member of the Cabinet of the Council.

d) Parish Council representation on Place Overview & Scrutiny

The Place Overview and Scrutiny Panel shall include two further co-opted members when considering a matters of Crime and Disorder. These shall be one parish councillor representing each of the northern and southern parishes.

Co-optees and substitutes for either the northern or southern Parish Councils shall be appointed as follows:

- i. Vacancies are notified to each Parish Council by the Council
- ii. Parish Councils must submit in writing their nominations within 28 days of notification. Each Parish Council can only nominate one co-optee.
- iii. Each nomination shall include details of the proposed co-optee with a maximum 100 word supporting statement
- iv. Where more than one nomination is received then each Parish Council (in either the northern or southern Parishes) is then entitled to vote on the nominated candidates. The votes must be received within 28 days of notification.
- v. The nominee with the greatest number of votes shall be elected to the Panel as the co-optee. The nominee with the next highest number of votes shall be the substitute. In the event of a tie for either position the Chairman of the Panel shall select the nominee to be appointed as co-optee to the Panel.
- vi. If only one nomination is received for either the northern or the southern parishes, the nominee will automatically be appointed as co-optee

The Panel shall be permitted to change the process of appointment as it see fits and decide the exact methodology.

Each co-optee and substitute shall remain on the Panel for a maximum period of 4 years (providing Council re-appoints at each Annual Council meeting). In the event the co-optee is absent from 2 or more meetings in any one year then the Panel may pass a resolution to remove the co-optee from the Panel.

Where a co-optee resigns then the substitute shall take the place as the co-optee on the Panel for the remainder of the term if the Panel resolves to accept the substitute. Where the substitute elects not to take up the position on the Panel, then the Panel shall seek further nominations from the Parish Councils and steps a. to f. above shall be followed. Where a substitute position is vacant then the Parish Councils shall be requested to nominate further substitutes and the process in points i to vi shall be followed.

The parish council representatives to be required to liaise with relevant parishes on a regular basis.

#### **A4 MEETINGS OF THE OVERVIEW AND SCRUTINY PANELS**

- A4.1 Each Overview and Scrutiny Panel shall ordinarily meet four times a year and the first meeting being held within 30 days of Annual Council meeting. Further meetings will be called as determined in the Work Programme. In addition, extraordinary meetings may be called from time to time as and when appropriate.
- A4.2 Further meetings of an Overview and Scrutiny Panel may be called by the Chairman of the relevant Overview and Scrutiny Panel, or by agreement of the Panel following consideration of the requirements of the Work Programme.

#### **A5 QUORUM**

The quorum for an Overview and Scrutiny Panel or sub-panel shall be one quarter of the total membership of the Panel (excluding co-optees) or 3, whichever is the larger.

#### **A6 CHAIRING THE OVERVIEW AND SCRUTINY PANEL MEETINGS**

- A6.1 The Chairmen of each Overview and Scrutiny Panel shall be appointed by that Overview and Scrutiny Panel.
- A6.2 At the first meeting of each Panel in each year, the first order of business will be to elect a Chairman and Vice-chairman.
- A6.3 In the absence of a Chairman the Vice-Chairman can exercise the powers of the Chairman.

#### **A7 WORK PROGRAMME AND BUDGET**



- A7.1 The Overview and Scrutiny Panels will be responsible for setting the work programme ('the Work Programme').
- A7.2 In setting the Work Programme the Overview and Scrutiny Panels shall take into account the wishes of:
- A7.2.1 Members on the relevant Panel;
  - A7.2.2 Members of the Council (including those not in the largest political group);
  - A7.2.3 the Cabinet; and
  - A7.2.4 residents.
- A7.3 The Chairmen of the Overview and Scrutiny Panels shall invite representations for inclusion within the Work Programme from the groups in A7.2 within 60 days of Annual Council.
- A7.4 The Chairman of the Overview and Scrutiny Panels must ensure that the Work Programme can be resourced within the budget and allocation of officer time to it. Accordingly, they shall submit the Work Programme for comment to Cabinet (in relation to executive functions) and Council (relating to Council functions) as part of its Annual Report for approval.
- A7.5 The Overview and Scrutiny Panels will have to give regard to the following when considering any requests for work to be included on the Work Programme:
- i) The appropriateness and relevance of the subject matter of any request to the functions of the Council or matters impacting on the Borough;
  - ii) The possible implications on services and available budgets;
  - iii) Whether the matter could be incorporated with any other reviews currently being undertaken or proposed to be undertaken to avoid any duplication or conflicting outcomes;
  - iv) The priority of the request for inclusion in the Work Programme and the effect the initiating of a review would have on the Panel's overall work programme.
- A7.6 A matter for inclusion in the Work Programme can include issues such as:
- i) The decision-making process has not been correctly adhered to;
  - ii) The Council's policy on a particular matter is not being achieved effectively or implemented effectively; or
  - iii) There is a genuine concern about the performance of a particular service (whether a Council provided service or that provided by a third party); or
  - iv) It is justified on the basis of Best Value; or

- v) It raises questions of significant executive matters appropriate to the Panel's terms of reference, and;
- vi) Also can include matters which affect the Council's area or residents.

- A7.7 The Overview and Scrutiny Panel will not consider:
- i) Matters not relevant to Council business or to the Royal Borough.
  - ii) Employee Industrial Relations, disciplinary or grievance matters.
  - iii) Matters which are subject to formal or statutory appeal processes or are subjudice.
  - iv) Individual cases, applications etc. such as in planning, licensing, housing, education etc.
  - v) Matters which have been subject to a decision following a formal review within the previous 6 months.
  - vi) Matters which have been considered and determined by the Overview and Scrutiny Panel or one of their sub-panels or the Council within the preceding 6 months.
  - vii) Matters which are the subject of a current review by the Council.

## **A8 Requests for further work to Overview & Scrutiny**

A8.1 Any Member may refer a "local government matter" to the relevant Overview and Scrutiny Panel to consider any matter relevant to the function of Overview and Scrutiny.

A8.2 Any "local government matter" referred to the Overview and Scrutiny Panel by a Member of the Council (Councillor 'Call for Action') must relate to the discharge of any function of the authority, or functions/services provided by partner organisations, affect all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and

A8.3 The Call for Action should be an option of "last resort". In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on an Overview and Scrutiny Panel agenda if the Chairman of the relevant Panel, in consultation with the Monitoring Officer, is satisfied that:

- (i) the Member has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
- (ii) the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and
- (iii) the issue of concern has a demonstrable impact on a part or the whole of the Member's ward

and accordingly information to support the above matters should accompany the Call for Action request.

A8.4 The Call for Action cannot be:

- a) any matter which is a local crime and disorder matter (within the meaning of section 19 of the Police and Criminal Justice Act 2006 (c.48)); or
- b) any matter relating to a planning decision; or
- c) any matter relating to a licensing decision; or
- d) 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; or
- e) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of an Overview and Scrutiny Panel.

A8.3 An excluded matter does not fall within the description of (b) to (d) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal conferred by or under any enactment.

A8.4 If the Chairman, on advice from with the Monitoring Officer, rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.

A8.5 A valid Call for Action will be considered at the next ordinary meeting of the relevant Overview and Scrutiny Panel or at a special meeting of that Panel within 28 days of validation whichever is the sooner.

A8.6 The subject matter of the Call for Action will be the subject of a report from the relevant Director, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Panel meeting to provide that information, make representations and answer questions.

A8.7 The Call for Action will be considered by the Overview and Scrutiny Panel in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.

A8.8 The Member who referred the matter under A8.1 above may address the Overview and Scrutiny Panel in respect of the Call for Action for up to **10 minutes**.

- A8.9 The relevant Overview and Scrutiny Panel may also consider representations from any residents of the ward affected by the Call for Action, subject to the discretion of the Chairman.
- A8.10 If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Member shall also attend the Overview and Scrutiny Panel to answer questions and make any representations.
- A8.11 The Overview and Scrutiny Panels shall also respond, as soon as its Work Programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of Council or any activity of any third party who provides services to or on behalf of the Council.
- A8.12 When the matter has been considered, the relevant Overview and Scrutiny Panel shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Panel in accordance with the provisions of Rule 4 A11.

**A9 Agenda Items for Overview & Scrutiny Panel.**

- A9.1 Any Member of an Overview and Scrutiny Panel shall be entitled to give notice to the Head of Governance that he/she wishes an item relevant to the functions of that Panel or a subpanel to be included on the agenda for the next available meeting of the Panel or sub-panel. On receipt of such a request the Head of Governance will ensure that it is compliant with the requirements of rule A7.3- A7.7 and within the terms of reference for the Panel.
- A9.2 Any member of the Council shall be entitled to give notice to the Head of Governance that he/she wishes an item relating to a Councillor Call for Action to be included on the agenda for discussions at a meeting of the relevant Overview and Scrutiny Panel. All such requests must relate to a "local government matter" and should not be an "excluded matter" as outlined in A7.5 above.
- A9.3 Any such request must be in writing and signed by the Member and be submitted to the Head of Governance. It must give details as to the reason(s) why the request to have the matter considered has been made.
- A9.4 The Head of Governance shall consult the Chairman of the relevant Overview and Scrutiny Panel and the Monitoring Officer to determine whether the request for the Councillor Call for Action is valid under A7.3-A7.7.
- A9.5 Where a meeting of the relevant Overview and Scrutiny Panel is already scheduled and the request has been received no later than 15

clear working days before the date of the relevant Overview and Scrutiny Panel (other than in cases of urgency and as agreed by the Chairman, on advice from the Monitoring Officer) then the item will be added to the agenda. At the meeting the Overview and Scrutiny Panel will consider whether and how to take the item forward in light of the Panel's Work Programme, including whether a review should be undertaken by it or by a sub-panel, including a panel established specifically to consider the matter referred to the Overview and Scrutiny Panel.

A9.6 Where no Panel is scheduled then the Head of Governance will call a meeting of the relevant Panel within 28 days of receipt of the request.

#### **A10 POLICY REVIEW AND DEVELOPMENT**

- a) The role of the Overview and Scrutiny Panels in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, an Overview and Scrutiny Panel may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- c) The Overview and Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so within the budget allocated to the Panels.

#### **A11 REPORTS FROM OVERVIEW AND SCRUTINY PANELS**

- a) All formal reports from subpanels of the Overview and Scrutiny Panels will be reported to the Overview and Scrutiny Panel before submission to the Cabinet or the Council except in special circumstances with the agreement of the Chairman or Vice-Chairman of the relevant Overview and Scrutiny Panel.
- b) Once the Panels have formed recommendations on proposals for development (or received recommendations from its subpanel), the relevant Overview and Scrutiny Panel will prepare a formal report and submit it to the Head of Governance for consideration by Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or by Council as appropriate

(e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- c) If any of the Overview and Scrutiny Panels cannot agree on one single final report to the Council or Cabinet as appropriate, then this fact will be noted on the report, with a brief description of the areas of difference, and submitted for consideration by the Council or Cabinet.
- d) The Cabinet shall initially consider the report of any Overview and Scrutiny Panel within **one** month of it being submitted to the Head of Governance. Council shall consider it at the next programmed ordinary meeting.

#### **A12 MAKING SURE THAT OVERVIEW AND SCRUTINY PANELS REPORTS ARE CONSIDERED BY CABINET**

- a) The agenda for Executive meetings shall include as an item any issues or reports received from Overview and Scrutiny Panels when required.
- b) Once Overview and Scrutiny has completed its deliberations on any matter, it will forward a copy of its final report to the Head of Governance who, in accordance with the Constitution, will forward it to either or both the Cabinet and the Council for consideration, according to whether or not the report would have implications for the Council's Budget and Policy Framework. If the report is referred to the Council, a copy will also be sent to the Leader. The Cabinet will have **eight** weeks from the date it is copied to the Leader, in which to respond to the Overview and Scrutiny Panel's report and the Council shall not consider it within that period. The Cabinet's consideration shall be at a public Cabinet meeting where either the report is considered or if the Cabinet had already scheduled a report on the matter itself, the two can be considered together.
- c) When the Council meets to consider any referral from the Overview and Scrutiny Panel on a matter that would impact on the Budget and Policy Framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Panel.
- d) If the Cabinet, for whatever reason, fails to consider the Overview and Scrutiny Panel's report within eight weeks, it will be referred to Council for review and to make a recommendation to Cabinet.
- e) The Overview and Scrutiny Panels will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Panel following a consideration of possible policy/service developments,

the Panel will be able to respond in the course of the Cabinet's consultation process in relation to any decision.

- f) Where the Cabinet has delegated decision-making power to a subcommittee of Cabinet, another individual Member of the Cabinet or an officer then the Overview and Scrutiny Panel will submit a copy of their report to him for consideration. The individual(s) with delegated decision-making power must consider the report and respond in writing to the Overview and Scrutiny Panel within four weeks of receiving it. A copy of the written response to it shall be sent to the Head of Governance and the Leader. The individual may also be requested to attend a future meeting of the relevant Overview and Scrutiny Panel to present their response.

### **A13 RIGHTS OF OVERVIEW AND SCRUTINY PANEL MEMBERS TO DOCUMENTS**

- a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 8 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Panel as appropriate depending on the particular matter under consideration.

### **A14 MEMBERS AND OFFICERS GIVING ACCOUNT**

- a) The Overview and Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions relevant to the individual Panel's terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service, Chief Officer and/or Deputy Chief Officer to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) the delivery of services within their areas of responsibility in accordance with the Policy and Budget Framework.

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

- b) Where any Member or Officer is required to attend an Overview and Scrutiny Panel under this provision, the Chairman of the Panel will inform the Head of Governance. The Head of Governance shall inform the Member or Officer in writing giving

at least ten working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Panel shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.
- d) Members and Officers are required to assist the Panel's fully and should answer questions openly and honestly. However, questions should not be asked or answers given about matters that are exempt from the scrutiny request procedure. They may decline to answer only where they feel that a reply would be inappropriate or injurious for legal or confidentiality reasons. The Member or Officer should give a reason if they do decline to reply.
- e) Subject to the rules in respect of confidential or exempt information, all questions will be put and answered in public. However, it is presumed that a matter is not confidential unless there are demonstrable and justifiable reasons for it being so.
- f) Although a full account of their actions should be given, Officers' comments should be consistent with the principles of officer professionalism and political neutrality. Officers should not give their individual views or judgements on matters of political controversy or policy. In those instances the questions should be referred to the appropriate Cabinet Member to answer. However, Officers will be required to give their expert views on an issue under consideration if it is based on their qualifications, expertise or experience.
- g) The question process is an opportunity for Members of the Overview and Scrutiny Panel to obtain information or explanation about executive decisions on proposals and not to criticise or comment on judgement exercised or the conduct of the Member or Officer. The Scrutiny question must be confined to a question and should not include unnecessary or extraneous comment.
- h) The Overview and Scrutiny Panels cannot and should not act as a disciplinary tribunal and questions should not be directed to the conduct of individual Members/Officers. Questions should be asked in a manner that avoids negative or detrimental interrogation. There are other procedures in place for undertaking



formal investigations of improper conduct by Members and officers. (See also the Member/Officer Protocol, Part 7D).

- i) All questions asked by a Member of a Panel must be directly relevant to the subject matter under consideration at that meeting and as outlined in the notice given to the Member or officer.
- j) The Member or officer must be allowed to reply without interruption and to submit any information they consider necessary, whether oral or written, in order to adequately respond to any questions.
- k) Supplementary questions may be asked but a question shall not be pursued once the Member/officer has indicated that they consider they have given a full and final reply and the Chairman is satisfied that they have done so.
- l) Questions and replies shall be recorded by the clerk at the meeting and, where considered appropriate, will be included within the formal minute or record of the meeting. The Chairman, a Questioner or the Member/officer may ask for confirmation of the note taken of any question or reply at the time the question is asked or the answer given or immediately afterwards.
- m) The Chairman of the Panel will decide at which point the asking of questions has been completed and will advise the Member/Officer that they are free to leave should they wish to do so. No debate will take place on any question or reply until all questions have been put and answered.
- n) Nothing in this protocol will prevent the normal attendance at the Overview and Scrutiny Panels of Members or officers to give advice, information or views as they would usually do, or prevent the Panel from inviting such attendance.

## **A15 ATTENDANCE BY OTHERS**

A15.1 The Overview and Scrutiny Panel may invite people other than those people referred to in Rule A14 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.

A15.2 Arrangements have been made to facilitate the scrutiny of matters relating to health and health services in accordance with the Health and Social Care Act 2001 and the attendance at meetings of appropriate health services' staff.

A15.3 Arrangements with significant partner organisations who deliver services to residents on behalf of or at the request of the Council may

include provisions requiring senior officers of the partner organisation to appear before an Overview and Scrutiny Panel. The provisions of Rule A14 apply to such attendance.

## **A16 CALL-IN**

- a) When a decision is made by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet, or a Key Decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. Members of the Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of **5** clear working days after the publication of the decision, unless decision is called in under the provisions below. If a call-in is received within the 5 day period, implementation is deferred until the executive decision-taker has had the opportunity to re-consider the decision.
- c) During that period:
  - (i) Any 3 Members of the Council (one of whom must be a voting member of the relevant Overview and Scrutiny Panel within whose remit the decision falls); or
  - (ii) Any 5 Members of the Council

may sign a notice requesting that the decision is called in and submit the notice to the Head of Governance to call-in the decision for scrutiny. The Head of Governance shall then notify the decision-taker of the call-in. He/she shall call a meeting of the relevant Panel on such date after consultation with the Chairman of the relevant Panel, and in any case within 10 clear working days of receipt of the decision to call-in.

- d) Those Members requesting call-in should specify the reason for the call-in when making the request. Call-in should only be used in exceptional circumstances. These are where non-Executive Members have evidence that suggests that the Executive did not take the decision in accordance with the principles set out in Article 12.2:

These are:

- proportionately (the action must be proportionate to the desired outcome);

- due consultation and the taking of professional advice from Officers;
- consideration of the legal and financial implications
- respect for human rights and consideration of all other relevant duties, e.g. equalities;
- a presumption to favour of openness and inclusive decision-making;
- clarity of aims and desired outcomes in compliance with the Council's adopted Plans and Strategies;
- the giving of reasons for the decision and the proper recording of those reasons

Where appropriate, the call-in should specify if the decision is considered to be:

- i. contrary to the Policy Framework; or
- ii. not consistent with the authorised Budget.

Members should specify in the call-in the relevant part of the Policy Framework or Budget which the decision is considered to be inconsistent.

- e) At the meeting that the Call-in is considered, the relevant Panel will make one of the following decision:
  - i. to take no further action, in which case the decision will take effect immediately;
  - ii. to refer the decision back to the decision-maker for re-consideration, setting out the nature of the Panel's concerns. The decision-maker must then re-consider the matter, taking into account the concerns of the Overview and Scrutiny Panel, before making a final decision. In the case of Cabinet as the decision maker, the Leader can call a Cabinet meeting within 5 working days to expedite the process or refer the item to the next appropriate scheduled meeting. In the case of any decision maker, consideration must take place within a maximum of 28 days;
  - iii. if the decision is considered to be outside of the budget or policy framework, to refer the matter to next scheduled ordinary full Council or an extraordinary full Council meeting within 28 days if appropriate., in which case paragraph (g) below will apply;
- f) If, following a call-in, the Overview and Scrutiny Panel does not meet within 10 clear working days of receipt of the decision to call-in, or does meet but does not refer the matter back to the decision making person or body, or Full Council under iii above, the decision shall take effect immediately.

- g) If the matter was referred to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's view on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council request.
- h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- i) **Exceptions to this procedure:-**  
In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
- i) That each Overview and Scrutiny Panel may only consider two call-in requests per Cabinet meeting and only in relation to the remit or service areas that the Panel is responsible for;
  - ii) That Call-in can be invoked in respect to a decision only once;
  - iii) For the purposes of calculating how many 'call-ins' have been made by any one Panel, the call-in under Part 3B7 and Part 4 A16 will be taken together so that, for example, a call-in under either Part 3B7 or Part 4 A16 counts towards the two permitted under Part 4 A16 i)
  - iv) Where a matter has been referred to more than one Panel or where the matter may fall under the remit of more Panel, then it shall be considered by a single Panel as determined under rule A19;
  - v) No decision due to be referred to Council for final approval e.g. the Budget may be called in.

j) **Call-in and Urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the relevant Overview and Scrutiny Panel must agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

**A17 THE PARTY WHIP**

When considering any matter in respect of which a Member of any of the Overview and Scrutiny Panels or one of its subpanels is subject to a Group instruction as to how to vote on the matter, the Member must declare the existence of the instruction and the nature of it before the commencement of the Panel's deliberations on the matter. The declaration, and the detail of the instruction shall be recorded in the minutes of the meeting.

**A18 PROCEDURE AT OVERVIEW AND SCRUTINY PANEL MEETINGS**

- a) Overview and Scrutiny Panels shall consider the following business:
- i) Minutes of the last meeting.
  - ii) Declarations of interest (including whipping declarations).
  - ii) Consideration of any matter referred to the Panel for a decision in relation to call in of a decision.
  - iv) Receive reports from relevant Overview and Scrutiny Panels (or sub-panels)
  - v) Responses of the Cabinet to reports of the Overview and Scrutiny Panel.
  - vi) The business otherwise set out on the agenda for the meeting.

- b) Where a relevant Overview and Scrutiny Panel conducts investigations and detailed work (e.g. with a view to policy decisions), the Panel may also ask people to attend to give evidence at the Panel meetings, which are to be conducted in accordance with the following principles.
  - i) That the investigation be conducted fairly and all Members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) That those assisting the Panel by giving evidence be treated with respect and courtesy; and
  - iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
  
- c) Following any investigation or review, the Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.
  
- d) Where the relevant Overview and Scrutiny Panel considers a call-in request, the format of the meeting will be as follows:
  - i. After the Chair opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
  - ii. on matters of particular relevance to a particular ward, ward division Members who are not signatories to a call-in have the opportunity to make comments on the call-in at the meeting, such speeches not to exceed five minutes each. Ward Members will take no further part in the discussion or vote. Ward Members must register their request to speak by contacting the Head of Governance by 12 noon on the day prior to the relevant hearing;
  - iii. the relevant Cabinet Member for the portfolio (or holders if more than one is relevant) will then be invited to make any comments;
  - iv. the relevant Director or his representative will advise the Panel on the background and context of the decision and its importance to achieving Service priorities;
  - v. Panel Members will ask questions of Members and officers in attendance; and
  - vi. the Cabinet Member(s) will be invited to make any final comments on the matter

before the Panel votes on a decision.

## **A19 APPROPRIATE PANEL**

Where a matter for consideration by an Overview and Scrutiny Panel also falls within the remit of one or more other Overview and Scrutiny Panels, the decision as to which Overview and Scrutiny Panel will consider it will be resolved by the Chairman of the Corporate Overview and Scrutiny Panel on advice from the Monitoring Officer.

## **A20 REPORTS TO THE COUNCIL WHERE THE KEY DECISION PROCEDURE IS NOT FOLLOWED**

A20.1 Where an executive decision has been made and

(a) was not treated as being a key decision; and

(b) the relevant Overview and Scrutiny Panel are of the opinion that the decision should have been treated as a key decision,

the Overview and Scrutiny Panel may require the decision maker which was responsible for the decision to submit a report to full Council within such reasonable period as the Panel may specify.

A20.2 A report under paragraph A20.1 must include details of:-

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

# **PART 4 - OVERVIEW AND SCRUTINY**

## **B - Terms of Reference for Overview and Scrutiny**



## **B. Terms of Reference for Overview and Scrutiny Panels**

### **B1 Terms of Reference**

The Council will appoint three Overview and Scrutiny Panels which will together and singly discharge the functions conferred by Section 21 of the Local Government Act 2000, regulations under Section 32 of the Local Government Act 2000 and subsequent amendments, Section 244 of the NHS Act 2006 the Police and Justices Act 2006, Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009.

Each Panel and any sub-panels shall be politically balanced in accordance with section 15 of the Local Government Act 2000.

### **B2 General role**

The Overview and Scrutiny Panels may:

- i) Review and/or scrutinise decisions to be made by Cabinet and made by it or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- iii) Consider any matter affecting the area or its inhabitants that falls within the remit of the council.
- iv) Exercise the right to call-in, for reconsideration, executive decisions made in respect of which no steps have been taken to implement the decision.
- v) Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of the draft plans and policy issues to be submitted to Council.
- vi) Conduct such necessary research and investigation in the analysis of the policy issues and the possible options for the plans to be submitted to Council as above.
- vii) Question relevant Members of Cabinet and the relevant Chief Officers about issues and proposals affecting the area.
- viii) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working.
- ix) Review and scrutinise the decisions to be made by Cabinet and which have been made by the Cabinet and Council officers both in relation to individual decisions and over time.
- x) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- xi) Question Members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- xii) Make recommendations to the Cabinet and/or Council arising from the outcome of the Scrutiny process.

- xiii) Review and scrutinise the performance of the relevant bodies in the area and invite reports from them to address an Overview and Scrutiny Panel and local people about their activities and performance.
- xiv) Question and gather evidence from any person or organisation (with that person/organisation's consent).
- xv) Consider any petitions referred to the Panel in accordance with the Council Petitions Protocol.
- xvi) Work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

### **B3. Finance.**

In carrying out its activities, the Overview and Scrutiny Panels will operate within such budget and allocation of officer time as the Council shall provide.

### **B4. Annual report.**

The Overview and Scrutiny Panels will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **B5 Proceedings of the Panels**

The Overview and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4A of this Constitution.

### **B6. Membership & Roles of Responsibility**

The membership of the Panels is as set out in the following table. The Role and Scope of each Overview and Scrutiny Panel is set out in general terms within Article 10 of this Constitution. The specific role of scope for each relevant panel is as follows:

<b>Panel and Membership</b>	<b>Role and Scope</b>
People O&S Panel (11 members) Co-Optees - 2 voting church and parent governor representatives for education matters only	The Panel will consider the following service areas: <ul style="list-style-type: none"> <li>• Adult Services</li> <li>• Children's Services</li> <li>• Environmental Health</li> <li>• Housing</li> <li>• Public Health</li> </ul> The People Overview & Scrutiny Panel shall have powers to deal with routine matters within the functions relating to Adult Social Care, Adult Services general and Public Health Services. The Panel shall have the enhanced review and scrutiny powers in line with provisions in

<b>Panel and Membership</b>	<b>Role and Scope</b>
	<p>Health and Social Care Act 2012, including power of referral to the Secretary of State for Health. In the event of a proposed referral to the Secretary of State for Health, a report shall be submitted to Council for information, prior to submission.</p> <p>All matters relating to Children's Services, Schools and Education generally.</p> <p>In addition to the Panel's broad terms of reference, the Panel will be responsible for ensuring the local authority fulfils its safeguarding responsibilities, including child sexual exploitation. This needs to include children's social care and education provision.</p> <p>The Panel will be responsible for the overview and scrutiny of the following within the remit of the Panel:</p> <ol style="list-style-type: none"> <li>1 To consider the Corporate Plan and Key Decisions and to monitor performance against these plans</li> <li>2 To deal with petitions when referred to Overview &amp; Scrutiny in accordance with the Council's Petition Protocol</li> <li>3 To consider the Council's annual budget</li> <li>4 To assist the Cabinet in the development of the Council's annual budget and to review and scrutinise budgetary management</li> <li>5 To prepare the annual report to Council.</li> <li>6 To issue the invite for scrutiny suggestions to the residents, members and the Cabinet.</li> <li>7 To determine the Overview and Scrutiny Work Programme</li> <li>8 The effective reporting and control of Council activities</li> </ol>
Place O&S Panel (11 members)	<p>The Panel will consider the following service areas:</p> <ul style="list-style-type: none"> <li>• Planning</li> </ul>

<b>Panel and Membership</b>	<b>Role and Scope</b>
<p>Co-Optees – 2 non-voting representatives from the north and south parishes for Crime and Disorder matters only</p>	<ul style="list-style-type: none"> <li>• Neighbourhoods</li> <li>• Infrastructure, Sustainability and Economic Growth</li> <li>• Health Partnerships and Community Development</li> </ul> <p>In addition, when considering matters of crime and disorder the Panel's main objective is to ensure that the Community Safety Partnership is held accountable for the discharge of its executive functions, to enable the voice and concerns of the public and its communities to be heard and drive improvement in public services. In addition to the Panel's broad terms of reference as detailed above, the Panel will be responsible for the overview and scrutiny of the following:</p> <ul style="list-style-type: none"> <li>• to consider the effectiveness of actions undertaken by the responsible authorities on the Community Safety Partnership ('CSP');</li> <li>• make reports or recommendations to Cabinet/Council with regard to those policies developed by the CSP and the effectiveness of the functions managed through the CSP.</li> <li>• to consider a number of issues in consultation with the relevant partners on the CSP which reflect local community need and make recommendations to Cabinet</li> </ul> <p>The Panel will be responsible for the overview and scrutiny of the following within the remit of the Panel:</p> <ol style="list-style-type: none"> <li>1 To consider the Corporate Plan and Key Decisions and to monitor performance against these plans</li> <li>2 To deal with petitions when referred to Overview &amp; Scrutiny in accordance with the Council's Petition Protocol</li> <li>3 To consider the Council's annual budget</li> <li>4 To assist the Cabinet in the development of the Council's annual budget and to review and scrutinise budgetary management</li> <li>5 To prepare the annual report to Council.</li> <li>6 To issue the invite for scrutiny suggestions to the residents, members and the Cabinet.</li> <li>7 To determine the Overview and Scrutiny Work</li> </ol>

<b>Panel and Membership</b>	<b>Role and Scope</b>
	<p>Programme</p> <p>8 The effective reporting and control of Council activities</p>
<p>Corporate O&amp;S Panel (11 members)</p>	<p>The Panel will consider the following service areas:</p> <ul style="list-style-type: none"> <li>• Finance</li> <li>• Revenues and Benefits</li> <li>• Library and Resident Services</li> <li>• Human Resources</li> <li>• Information Technology</li> <li>• Legal Services</li> <li>• Governance</li> <li>• Strategy</li> <li>• Communications</li> <li>• Transformation</li> <li>• Commissioning and Procurement</li> </ul> <p><u>Corporate Overview</u></p> <p>The Panel will be responsible for the overall corporate overview and scrutiny of the following:</p> <ol style="list-style-type: none"> <li>1 To consider the Corporate Plan and Key Decisions and to monitor performance against these plans</li> <li>2 To deal with petitions when referred to Overview &amp; Scrutiny in accordance with the Council's Petition Protocol</li> <li>3 To consider the Council's annual budget</li> <li>4 To assist the Cabinet in the development of the Council's annual budget and to review and scrutinise budgetary management</li> <li>5 To prepare the Panel's annual report to Council.</li> <li>6 To issue the Panel's invite for scrutiny suggestions to the residents, members and the Cabinet.</li> <li>7 To determine the Panel's Overview and Scrutiny Work Programme</li> </ol>

<b>Panel and Membership</b>	<b>Role and Scope</b>
	<p>8 The effective reporting and control of Council activities</p> <p>9 Key projects and their planning, implementation and delivery (where such projects do not relate to the remit of another Overview and Scrutiny Panel)</p> <p><u>Performance Overview</u></p> <p>(a) To monitor the performance of the Council as a whole and in respect of particular services as the Panel or Cabinet may from time to time identify for service improvement.</p> <p>(b) To monitor the Council's performance in respect of</p> <p>(i) such national and local performance indicators as the Panel considers appropriate</p> <p>(ii) delivery of outcome improvement plans in respect of reviews undertaken and make recommendations on areas requiring service improvement and on setting targets to deliver such improvements</p> <p>(iii) the effectiveness of performance reporting to enable the Directors and Heads of Service, the Cabinet and the Overview and Scrutiny Panels to perform their management, governance and overview and scrutiny roles respectively</p> <p>and make recommendations on areas requiring service improvement and on setting targets to deliver such improvements.</p> <p>(c) To consider and make recommendations in respect of external reviews and inspections of Council Services.</p> <p>(d) To monitor the partnership arrangements in which the Council is involved including but not restricted to:</p> <ul style="list-style-type: none"> <li>- Governance arrangements</li> <li>- any inspections or reviews undertaken in respect of partnership arrangements</li> </ul> <p>e) To receive and consider reports on the Council's negotiations to agree Local Area Agreements (LAA) and to monitor performance towards achieving the agreed targets.</p>

## **B7 Responsibilities of Members in Overview and Scrutiny**

### **B7.1 Chairmen of Relevant Scrutiny Panels**

Chairmen of Overview and Scrutiny Panels will:

1. Chair meetings of the relevant Overview and Scrutiny Panel;
2. provide strong, fair leadership and clear guidance to Members and officers in relation to Scrutiny functions;
3. have overall responsibility for the direction of scrutiny in the Council in their area of responsibility, and for ensuring that an appropriate annual scrutiny Work Programme is set;
4. continuously monitor and evaluate the relevance of the annual Scrutiny Work Programme;
5. review, challenge and question the implementation of agreed policy and service delivery, and make recommendations to the Cabinet and Council to improve policy, performance and service delivery;
6. develop a clear understanding of the terms of reference of their Panel, the scope and range of the areas for which it is responsible, and the Council policies in respect of those areas;
7. ensure the work of their panel contributes to the delivery of continuous improvement in services and implementation of best practice;
8. review all agendas for scrutiny panel meetings, to take a lead in developing a forward agenda, and to ensuring it is adhered to;
9. meet on a regular basis and consult with relevant Members to advise them of progress in the work of their Overview and Scrutiny Panel, discuss issues arising from the scrutiny process, and note action being taken by the relevant Cabinet Members to address the concerns of their Overview and Scrutiny Panel;
10. seek to involve all Overview and Scrutiny Panel Members in the work of their Panel;
11. lead on the preparation of the Panel's annual report and present the Panel's final report to full Council, and if required the Cabinet.
12. ensure that Scrutiny fulfils its review function;
13. ensure that Cabinet Members are briefed at the appropriate time on significant issues, that is those that may
  - (a) impact on established policy.
  - (b) have major resource implications

- (c) be contentious

### **B7.3 Overview and Scrutiny Panel Members**

All Members of the Overview and Scrutiny Panels will:

14. regularly attend meetings of the Overview and Scrutiny Panel or its Sub-Panels as appropriate;
15. play a major role in policy development and review;
16. hold the Cabinet to account as appropriate, to ensure continuous improvement in services by:
  - (i) reviewing and scrutinising the decisions made by and performance of the Cabinet and/or committees and Council Officers;
  - (ii) reviewing and scrutinising the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas; monitoring performance against strategy;
17. scrutinise the effectiveness and performance of partnerships;
18. scrutinise the performance as appropriate of the third sector (voluntary and community) as a service provider;
19. respond to community calls for action where required;
20. contribute to regional scrutiny arrangements as appropriate, such as NHS, regional agencies;
21. to evaluate whether the policies, strategies and plans the Council has adopted are, over time, actually delivering the outcomes intended for local people;
22. to actively engage with the community and local organisations to obtain their views on issues or proposals affecting the area, and if appropriate encourage their attendance at Overview and Scrutiny meetings;
23. to ensure that the Scrutiny process contributes to the promotion of community well-being and that public services are responsive to the needs of the people;
24. to review and scrutinise the performance of external agencies, by developing a partnership approach through collaborative scrutiny methods;
25. to identify areas of policy or under-performance in need of improvement, seek expert support, and provide evidence, advice, recommendations and proposals for consideration by the Council or Cabinet;



26. any other related duties, as assigned by the Chairman of the Overview and Scrutiny Panel.

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# **PART 5 - SCHEME OF DELEGATION TO OFFICERS**

## **A – SCHEME OF DELEGATION**

## **DELEGATIONS TO OFFICERS**

### **1. Introduction**

- 1.1 For the purposes of this section, the officers to whom delegations are made as follows:
- Chief Executive and Statutory Officers
  - Directors and other Corporate Leadership Team Members
  - Other Staff
- 1.2 Proper Officers for the purposes of specific legislation (as set out below) and as defined by section 270(3), Local Government Act 1972. These are set out in Part 5B.
- 1.3 The delegations set out below apply to those functions which have not, by virtue of this Constitution or any other instrument, been reserved to Council or Cabinet and any committees or sub-committees thereof.
- 1.4 For the avoidance of doubt any functions which are not specifically discharged by Council or delegated to Committees or Sub-Committees are delegated to Officers. If there is any doubt if such power is delegated it will be exercised by the Chief Executive or in his absence the relevant Director or the Monitoring Officer.

### **2. General Principles of Officer Delegations**

- 2.1 Specific Council and executive functions delegated to officers are specified in the Part 5 addendum.
- 2.2 Functions may be delegated to more than one officer or category of officer.
- 2.3 Functions may be delegated to different officers based upon a financial limitation or a precondition to the use of the delegation.
- 2.4 Functions delegated to officers are to be exercised taking into account:
- All other parts of the Constitution (including Article 12 “Decision Making”),
  - The Budget and Policy Framework,
  - The approved Budget,
  - The Terms of Reference for all other subcommittees in Part 6,
  - Any instructions given by the Chief Executive,

- Any financial advice given by the Director of Resources,
  - Any legal advice given by the legal advisers to the Council, and
  - Any statutory codes of conduct or statutory guidance, and codes and protocols as may be approved by the Council and Cabinet.
- 2.5 Any function delegated to a specified officer may also be exercised by any officer who has been so authorised by the officer to whom the function is delegated or (save in case of Director of Resources and Monitoring Officer) by the Chief Executive. Such authorisations shall be recorded and held by the officer making the authorisation. Officers authorised under this provision to exercise a power delegated to another officer should be either fully or generally under the supervision and control of the authorising officer
- 2.6 Functions delegated by reference to job titles or posts which have changed will continue in force and shall be exercised by officers whose duties include or most closely correspond to the duties of the post originally referred to.
- 2.7 Any reference to any Act of Parliament shall be deemed to include any act, statutory instrument or regulation by which it is applied, extended, amended, consolidated or replaced.
- 2.8 Where any function is delegated to an officer, that officer may choose not to exercise that function and may, instead, refer a matter to the Council, the Cabinet, Committee, the relevant Director or relevant Portfolio Holder for decision as appropriate with the agreement of the appropriate Director.
- 2.9 The Cabinet, Cabinet Members or Committees may reserve to themselves decisions previously delegated to officers by Cabinet, Cabinet Member or Committee, by giving notice to the officer holding the delegated power or to the Chief Executive.
- 2.10 In the absence or the unavailability of an officer or where any function is not recorded as delegated in Part 5B (and is not reserved to the Council, Cabinet or Subcommittee) then any function delegated may be exercised by the relevant Director or the Chief Finance Officer or the Monitoring Officer.

### **3. General Powers of the Chief Executive**

- 3.1 To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.
- 3.2 To exercise authority over the Directors and Heads of Service, including allocating Directors' portfolios.
- 3.3 To exercise the powers delegated to any Director or other members of staff so far as the law allows.

- 3.4 To carry out the functions of the Council for civic aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the borough.
- 3.5 To undertake any other functions necessary for the carrying out of the role of the Chief Executive, within any existing legislative and policy constraints.
- 3.6 To act as Returning Officer for County Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act) unless another officer is appointed.
- 3.7 To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act unless another officer is appointed.
- 3.8 In an Emergency, to make decisions currently delegated to Committees or Panels, in consultation with the relevant senior qualified officer(s), Chairman of the relevant Committee or Panel, and the Principal Lead Opposition Member from each of the Opposition Groups of the relevant Committee or Panel, and others deemed necessary according to the requirements of the decision at hand. Emergency is defined as a time of direct or indirect imminent, serious danger requiring immediate action for the safety of the public, officers or Members, whether individually or as a group.
- 3.9 To make Urgent Decisions for matters that are the responsibility of Council, Cabinet and their Committees or Panels (other than Overview & Scrutiny Panel), such Urgent Decisions to be made in consultation with the Chairman or Vice Chairman of the relevant decision making body. An Urgent Decision means any decision required in advance of the earliest possible meeting of Council, Cabinet or relevant Committee or Panels, providing that if the decision is (i) a Key Decision then the Special Urgency Rule 16 of Part 8E must be followed and (ii) contrary to Budget or Policy Framework then Part 3 Rule 4 'Urgent Decisions outside the Budget or Policy Framework' must be followed.

#### **4. General Powers of the Directors (including Chief Executive) and Heads of Service (deputy chief officers)**

- 4.1 The Directors for the Council and their areas of responsibility are set out in this Constitution.
- 4.2 All Directors and Heads of Service are delegated all those powers necessary to act within the assigned portfolio of responsibilities and budget. Note that this delegation is subject to the general provisions and limitations set out in this Constitution.
- 4.3 An Director and Heads of Service may further delegate any of the powers delegated to him or her under this Constitution or any other applicable

scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of this Constitution

## **5. General Powers of Staff**

- 5.1 All staff shall be delegated all those powers necessary to carry out those functions specified in their respective job descriptions, subject to the general provisions and limitations set out in this Constitution.
- 5.2 All staff will have Delegated Authority required to:-
- (a) Effectively manage and promote the services for which they are responsible;
  - (b) Exercise the function delegated to Officers under the Financial Procedural Rules and to let contracts in accordance with Contract Procedure Rules;
  - (c) Exercise all functions delegated under the Officer Employment Procedure Rules and to manage all staff in accordance with the Council's Policy, Procedures and Terms of Conditions of staff.

## **6. General Provisions and Limitations**

- 6.1 Apart from those powers set out below which have been generally or specifically delegated to staff, any remaining functions which have not been, under this or any other current scheme of delegations, specifically reserved to Council, Cabinet or any committees or sub-committees thereof are delegated to officers
- 6.2 Staff shall exercise powers under this scheme in compliance with:
- The rules of procedure set out in this Constitution;
  - Corporate policies and strategies;
  - Any additional conditions imposed either by the Council or by statute or any statutory code of conduct.
- 6.3 The exercise of the powers delegated under this Constitution or any other scheme of delegation by staff involving the incurring of expenditure is subject to there being sufficient approved provision within their budget to cover that expenditure.
- 6.4 Each Director shall have all the powers and duties delegated to the Heads of Service or other staff within his/her portfolio, who are assigned to him or her, so far as is legally permissible.

- 6.5 The Director will delegate to the post that is most appropriate for the exercise of the function. Any direct line manager between the Director and the post delegated the function is also entitled to perform that function, unless otherwise stated in the scheme.

## 7. Monitoring Officer and Director of Resources

- 7.1 The functions of the Monitoring Officer and Director of Resources are set out below. The Council will provide the Monitoring Officer and Director of Resources with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed. The Monitoring Officer cannot be the Director of Resources or the Head of Paid Service.

### 7.2 Functions of the Monitoring Officer

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Director of Resources, the Monitoring Officer will report to the Council or to Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
- d) **Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules.** The Director of Resources in consultation with the Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- e) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- f) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular



through the provision of professional advice on the lawfulness or probity of any matter.

### 7.3 Functions of the Director of Resources

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Director of Resources will report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or of the Council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs.** The Director of Resources will have responsibility for the administration of the financial affairs of the Council and will certify the robustness of the council's estimates of expenditure and proposed budget.
- c) **Contributing to corporate management.** The Director of Resources will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The Director of Resources will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- e) **Give financial information.** The Director of Resources will provide financial information to the media, members of the public and the community.

# **PART 5 – SCHEME OF DELEGATION TO OFFICERS**

## **B – PROPER OFFICER FUNCTIONS**

## Delegations to Officers

### B - Proper Officer Functions

#### Meaning of Proper Officer Functions

- 1.1 The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations. Proper officer is defined for most legislation by s.270(3) Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.
- 1.2 The deputy proper officer is given in brackets after the proper officer. The deputy proper officer is appointed to act where the proper officer is absent and/or unable to act for any reason. Where neither the designated proper officer nor the designated deputy proper officer is able to act, or if there is no specified designated proper officer or deputy proper officer, the Chief Executive may designate an appropriate person to act as proper officer or deputy proper officer. If the Chief Executive is unable to act, this power shall be delegated to the Monitoring Officer or, if the Monitoring Officer is unavailable, to the Deputy Monitoring Officer.

#### Local Authority Social Services Act 1970

Section	Description	Proper Officer
6	Statutory Director of Social Services (Adults)	Director of Adult Social Services

#### Local Government Act 1972

Section	Description	Proper Officer
83(1) – (4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: Mayor, Deputy Mayor, Councillor	Monitoring Officer (Chief Executive)
84	Officer to whom a person elected to any office under the Council may give written notice or resignation	Monitoring Officer (Chief Executive)
86	Declaration of a vacancy	Monitoring Officer (Chief Executive)
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Chief Executive (Any Director)
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local government electors	Chief Executive (Monitoring Officer)
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to	Head of Governance

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
	items during which the meeting is likely not to be open to the public	(Monitoring Officer)
100B(7)(c)	Officer who may supply a copy of the agenda and reports for the meeting and copies of any other documents supplied to members of the council in connection with the item.	–Head of Governance (Monitoring Officer)
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Head of Governance (Monitoring Officer)
100D(1)(a) and (5)(a)	Officer responsible for identifying background papers and list of such documents	Head of Governance (Monitoring Officer)
100F(2)	Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members	Monitoring Officer (Chief Executive)
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Director of Resources
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Director of Resources
151	Officer having responsibility for the administration of the Council's financial matters	Director of Resources
191	Officer authorised in respect of Ordnance Survey	Head of Commissioning - Communities
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Monitoring Officer
212	Officer authorised to act as local registrar for Land Charges Act	Monitoring Officer (Information Management TL)
222	Officer authorised to prosecute and defend proceedings	Monitoring Officer
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts.	Monitoring Officer

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody of the Council	Monitoring Officer
234(1) & (2)	Officer who may authenticate and seal documents	Monitoring Officer
236 / 238	Officer authorised to receive, certify and send copies of byelaws to Parish Councils	Monitoring Officer
248	Officer authorised to keep a Roll of Freeman	Monitoring Officer
Para 4(2)(b) of Part 1 of Schedule 12	Officer who may sign a summons to council meetings	Chief Executive (Head of Governance)
Para 4(3) of Part 1 of Schedule 12	Officer who may receive notice from a Member of address to which a summons to a meeting is to be sent	Chief Executive (Head of Governance)
Para 25 of Schedule 14	Officer authorised to certify resolutions	(Head of Governance Services)
Para 28 of Schedule 16	Officer authorised to receive deposit of protected buildings	Head of Planning

**Local Government Act 1974**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
30 (5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Monitoring Officer

**Local Government (Miscellaneous Provisions) Act 1976**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Head of Governance

**Representation of the People Act 1983**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
8	Registration Officer	Returning Officer
35	Returning Officer	Returning Officer

**Buildings Act 1984**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
78 (8) BA 1984	Officer responsible for taking immediate action in relation to dangerous buildings	Director

**Local Government Finance Act 1988**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
114	Officer responsible for making financial report to the authority	Director of Resources

**Local Government and Housing Act 1989**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
2	Officer responsible for preparation of list of politically restricted posts	Chief Executive
4	Head of Paid Service	Chief Executive
5	Monitoring Officer	Chief Executive
15, 16 and 17	Officer responsible for receiving notices relating to political groups	Chief Executive

**Local Government (Committees and Political Groups) Regulations 1990**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
8 (1) and (5)	Officer to whom notice is delivered about the constitution of, or the change of name of a political group	Chief Executive (Monitoring Officer)
9 and 10	Officer to whom notice is delivered about a Councillor's membership of, or cessation of, a political group	Chief Executive (Monitoring Officer)
13	Officer to whom the wishes of a political group are expressed	Chief Executive (Monitoring Officer)

14	Officer responsible for notifying a political group about allocations and vacations of seats	Head of Governance
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### Local Government (Contracts) Act 1997

Section	Description	Proper Officer
1 - 4	Officer responsible for certifying a contract under this act.	Director of Resources

### Local Government Act 2000

Section	Description	Proper Officer
34	Officer responsible for publication of number of local government electors required to support a petition	Chief Executive

### The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

Section	Description	Proper Officer
12 (1)	Officer responsible for producing a written statement of all executive decisions made at a public or private meeting of Cabinet, including the information specified in regulation 12 (2).	Chief Executive (Monitoring Officer)

Section	Description	Proper Officer
14	Officer responsible for ensuring that a copy of the following documents is available for public inspection: the written statement referred to in regulation 12 above part or all of any report considered by the decision maker and relevant to the decision made	Chief Executive (Monitoring Officer)
15	Officer responsible for compiling a list of background papers to the report referred to in regulation 14 above. This officer is the proper officer referred to in rule 8 of the Access to	Chief Executive (Monitoring Officer)

	Information Procedure Rules set out in Part 8 of this constitution	
20 (1)	Officer who may exclude whole or part of any report provided for public inspection under regulation 20 (1), where the part excluded relates to a matter for which the proper officer considers a meeting is not likely to be open to the public. This officer is the proper officer referred to in rule 11 of the Access to Information Procedure Rules set out in Part 8 of this constitution	Chief Executive (Monitoring Officer)
9 (1)	Officer responsible for publishing the information relating to key decisions specified in regulation 9 (1). This officer is the proper officer referred to in rule 14 of the Access to Information Procedure Rules set out in Part 8 of this Constitution.	Head of Governance (Monitoring Officer)

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
20 (3) (a) and (b)	Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information or exempt information or the advice of a political advisor or assistant	Chief Executive ( Chief Executive )

#### **The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
4 (2)	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	Electoral Registration Officer

#### **The Freedom of Information Act 2000**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
36	Officer who determines exempt information	Chief Executive



**The Local Authorities (Standing Orders) (England) Regulations 2000**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
Paras 5 and 6 of Part II of Schedule 1	Officer for receiving notification of proposed appointment of certain officers, notifying Executive Members of that proposed appointment and for receiving and notifying of objections to the proposed appointment.	Chief Executive

**Proper officer functions referred to in guidelines issued by the Secretary of State under section 38 of the Local Government Act 2000 (Part 8 of this Constitution)**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
17 Access to Information Procedure Rules	Officer who may, when requested to do so on behalf of an Overview and Scrutiny Commission, require Cabinet to submit a report to the Council within such reasonable time as the Overview and Scrutiny Commission specifies	Monitoring Officer (Head of Governance)
2.5 Executive Procedure Rules	Officer who may place an item on the agenda of the next available meeting of the Cabinet for consideration	The Monitoring Officer and/or the Chief Financial Officer in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting.

**Children Act 2004**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
18	Statutory Director of Children's Services	Director of Children's Services

**Education Acts**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
n/a	Appointment of local authority governors	Director of Children's Services

**The Environment Assessment of Plans and Programmes Regulations 2004**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
9	Officer responsible for determining whether a plan, programme or modification is likely to have significant environmental effects.	Head of Planning

**The Neighbourhood Planning (Referendums) Regulations 2012**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
4	Officer responsible for the publication of the information statement and specified documents in relation to the neighbourhood planning process.	Returning Officer

# **PART 5 – SCHEME OF DELEGATION TO OFFICERS**

## **Addendum – OFFICER DELEGATIONS OF COUNCIL AND EXECUTIVE FUNCTIONS**

**The columns “Function” and “Statute or Regulation” expressly set out in Part 5 addendum of the Constitution have been determined by full Council to be delegated to the relevant Director.**

**The column ‘Delegation (& conditions)’ expressly set out in Part 5 addendum is not considered to form part of the Constitution and each Director is delegated authority to determine the appropriate officer to exercise the delegation. Such further determination shall not require authority or further authority of the full Council to change and may be amended in accordance by the Director by notification to the Head of Governance.**

# **ADDENDUM TO PART 5 – SCHEME OF DELEGATION TO OFFICERS**

## **1 – OFFICER DELEGATIONS OF COUNCIL AND EXECUTIVE FUNCTIONS RELATING TO:**

### **PLACE**

The columns “Function” and “Statute or Regulation” expressly set out in this Addendum to Part 5B of the Constitution have been determined by full Council to be part of the delegations to the relevant Executive Director and not reserved to a Council, Cabinet or a subcommittee.

This Addendum to Part 5B of the Constitution is not considered to form part of the Constitution and each Executive Director is delegated authority to determine the appropriate officer to exercise the delegation. Such further determination shall not require authority or further authority of the full Council to change and may be changed in accordance by the Executive Director by notification to the Head of Governance.

**Part 5-1 ADDENDUM: Officer Delegations – Placed based functions delegated to Officers from the Executive Director**

No.	Placed based function	No.	Placed based function
A	Town and Country Planning & Development Management	P	Health & Safety
B	Caravans & Camping Sites	Q	Public Health
C	Taxi	R	Smoke Free Premises
D	Gambling	S	Housing
E	Animal Welfare & Feed	T	Economic Development & Culture
F	Charities/Marriage	U	Trees
G	Village Greens & Common Land	V	Building Regulations
H	Highways	W	Environmental Protection/Nuisance/Clean Neighbourhoods
I	Traffic	X	Parks & Green Spaces
J	Rights of Way	Y	Water & Flooding
K	Parking	Z	
L	Transport	AA	Trading Standards
M	Consumer Protection	AB	Weights & Measures
N	Food Safety	AC	Counter Terrorism
O	Alcohol Licensing		

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No	Function	Statute or Regulation	Delegation (& conditions)
<b>A.</b>	<b>TOWN AND COUNTRY PLANNING AND DEVELOPMENT MANAGEMENT</b>		
A1	Authority for the making of comments on planning applications situated within the boundary of neighbouring local planning authorities	TCPA1990, Planning and Compulsory Purchase Act 2004	Head of H, EH&TS (relating to environmental functions)  Head of Planning
A2	Power to determine application for planning permission or permission in principle.	Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the TCPA1990	Head of Planning Deputy Head of Planning Team Leader – Planning
A3	Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the TCPA1990.	Head of Planning
A4	Power to grant planning permission for development already carried out.	Section 73A of the TCPA1990.	Head of Planning
A5	Power to decline to determine application for planning permission or permission in principle.	Section 70A of the TCPA1990.	Head of Planning
A6	Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the TCPA1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the GDP1995.	Head of Planning
A7	Power to determine application for planning permission or permission in principle made by a local authority, alone or jointly with another person.	Section 316 of the TCPA1990 and the Town and Country Planning General Regulations 1992	Head of Planning
A8	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995	Head of Planning
A9	Making of a Direction under Article 4	Town and Country Planning (General Permitted Development) Order 1995	Head of Planning
A10	Power to enter into agreement regulating development or use of land.	Section 106 of the TCPA1990.	Head of Planning
A11	Power to issue a certificate of existing or proposed lawful	Sections 191(4) and 192(2) of the TCPA1990.	Head of Planning

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
	use or development.		
A12	Power to serve a completion notice.	Section 94(2) of the TCPA1990.	Head of Planning
A13	Power to grant consent for the display of advertisements.	Section 220 of the TCPA1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666).	Head of Planning
A14	Power to authorise entry onto land.	Section 196A of the TCPA1990.	Head of Planning
A15	Power to require the discontinuance of a use of land.	Section 102 of the TCPA1990.	Head of Planning
A16	Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the TCPA1990.	Head of Planning
A17	Power to issue a temporary stop notice.	[Section 171E of the TCPA1990	Head of Planning
A18	Power to issue an enforcement notice.	Section 172 of the TCPA1990.	Head of Planning
A19	Power to apply for an injunction restraining a breach of planning control.	Section 187B of the TCPA1990.	Head of Planning
A20	Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.	Head of Planning
A21	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.	Head of Planning
A22	Power to require proper maintenance of land.	Section 215(1) of the TCPA1990.	Head of Planning
A23	Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation	Head of Planning



<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
		Areas) Act 1990 (c.9)	
A24	Duties relating to applications for listed building consent	Sections 13(1) and 14(1) and (4) and 26H and 26I of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) <sup>9</sup> and [regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519) The Planning (Listed Buildings) (Certificates of Lawfulness of Proposed Works) Regulations 2014	Head of Planning
A25	Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)	Head of Planning
A26	Power to revoke or modify planning permission	Section 97 of the Town and Country Planning Act 1990	Head of Planning
A27	The making of Local Development Orders	Article 5 of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006	Head of Planning
A28	Power to exercise functions relating to Nationally Significant Infrastructure Projects and Development Consent Orders	Planning Act 2008	Head of Planning
A29	Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)	Head of Planning
A30	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)	Head of Planning
A31	Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)	Head of Planning
A32	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)	Head of Planning

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No	Function	Statute or Regulation	Delegation (& conditions)
A33	Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017.	Head of Planning
A34	The obtaining of information as to interests in land.	section 330 of the TCPA1990	Head of Planning
A35	Functions relating to Community Infrastructure Levy and Planning Obligations	Community Infrastructure Regulations 2010	Head of Planning
A36	Designation of the boundary of a Neighbourhood Planning Area (NPA)	TCPA1990	Head of Planning
A37	Designation of the 'Relevant Body' to act as Neighbourhood (Planning) Forum for a determined NPA.	TCPA1990	Head of Planning
154 A38	Any matter relating the formulation, consultation and adoption of a neighbourhood planning document, guidance or policy document not reserved to Council, Committee, Cabinet or Officer	TCPA1990 Planning and Compulsory Purchase Act 2004 Town and country planning (Local planning)(England Regulations 2012	Head of Planning
A39	Any matter relating to development management, planning enforcement or the formulation, consultation and adoption of a development plan document, guidance or policy document not reserved to Council, Committee, Cabinet or Officer	TCPA1990 Planning and Compulsory Purchase Act 2004	Head of Planning
A40	Residual planning functions that are the responsibility of the executive such as preparation of supplementary planning guidance, designation of conservation areas, areas of archaeological interest and nature reserves	TCPA1990 Planning and Compulsory Purchase Act 2004  Town and country planning (Local planning)(England Regulations 2012	Head of Planning
<b>B. CARAVANS &amp; CAMPING SITES</b>			
B1	Power to issue licences authorising the use of land as a	Section 3(3) of the Caravan Sites and Control of	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
	caravan site ("site licences").	Development Act 1960 (c. 62).	
B2	Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).	Head of H,EH & TS
<b>C. TAXI</b>			
C1	Functions to license and regulate hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of H,EH & TS
C2	Power to license and regulate drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of H,EH & TS
C3	Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of H,EH & TS
<b>D. GAMBLING, TRADING &amp; ENTERTAINMENTS</b>			
D1	Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2) as saved for certain purposes by article 3(3)(c) of the Gambling Act Order.	Head of H,EH & TS
D2	Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.	Head of H,EH & TS
D3	Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes	Head of H,EH & TS

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
		by article 3(3)(e) of the Gambling Act Order.	
D4	Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65) as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order.	Head of H,EH & TS
D5	Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32) as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order	Head of H,EH & TS
D6	Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order.	Head of H,EH & TS
D7	Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c. 13).	Head of H,EH & TS
D8	Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c. 54) <sup>26</sup> .	Head of H,EH & TS
D9	Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c. 12), section 52 of, and Schedule 12 to, the London Government Act 1963 (c. 33), section 79 of the Licensing Act 1964 (c. 26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).	Head of H,EH & TS
D10	Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the 2005 Act	Head of H,EH & TS
D11	Functions relating to exchange of information.	Section 30 of the 2005 Act.	Head of H,EH & TS
D12	Functions relating to occasional use notices.	Section 39 of the 2005 Act.	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
D13	Power to resolve not to issue a casino premises licence	Section 166 of the 2005 Act.	Head of H,EH & TS
D14	Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the 2005 Act	Head of H,EH & TS
D15	Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Section 284 of the 2005 Act.	Head of H,EH & TS
D16	Power to institute criminal proceedings	Section 346 of the 2005 Act.	Head of H,EH & TS
D17	Power to exchange information	Section 350 of the 2005 Act.	Head of H,EH & TS
D18	Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (S.I. 2007/479).	Head of H,EH & TS
D19	Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.	Head of H,EH & TS
D20	Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.	Head of H,EH & TS
D21	Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).	Head of H,EH & TS
D22	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	Head of H,EH & TS
D23	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53).	Head of H,EH & TS
D24	Power to register door staff.	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995 (c. x).	Head of H,EH & TS
D25	Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982,	Head of H,EH & TS

No	Function	Statute or Regulation	Delegation (& conditions)
		Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994 (c. xii).	
D26	Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.	Head of H,EH & TS
D27	Power to license dealers in game and the killing and selling of game.	Sections 5, 6,17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).	Head of H,EH & TS
158 D28	Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).	Head of H,EH & TS
D29	Power to license and regulate scrap yards including power of entry	Scrap Metal Dealers Act 2013.	Head of H,EH & TS
D30	Authorised functions including power to issue, amend or replace fire and safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52), the Fire Safety and Safety at Places of Sport Act 1987, the Fire Safety (Regulatory Reform) Order 2005 and other legislation of a like kind.	Head of H,EH & TS
D31	Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).	Head of H,EH & TS
D32	Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971 (c.40).	Head of H,EH & TS
<b>E</b>	<b>ANIMAL WELFARE &amp; FEED</b>		
E1	Power to grant or renew a licence for selling animals as	Animal Welfare (Licensing of Activities Involving	Head of H,EH & TS

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
	pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).	Animals) (England) Regulations 2018	
E2	Power to issue licences for the movement, sale and collection of pigs.	Article 12, 13 and 14 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).	Head of H,EH & TS
E3  E4	<p>Authorised functions arising under legislation governing animal licensing and animal welfare as stated and all other legislation of a like kind.</p> <p>Appointment in exercise of the power conferred upon the council by S51 of the Animal Welfare Act 2006 to act as an inspector for the purposes of the of the said Act</p>	Animal Welfare Act 2006, the Veterinary Medicines Regulations 2006, the Animal Health Act 1981, the Animal Health and Welfare Act 1984, the Animal Boarding Establishments Act 1963, the Breeding of Dogs Act 1973 and 1991, the Breeding and Sale of Dogs (Welfare) Act 1999, the Performing Animals (Regulation) Act 1925, the Slaughterhouses Act 1974, the Dangerous Wild Animals Act 1976, the Pet Animals Act 1951, the Riding Establishments Act 1964 and 1970; The Dogs Act 1871, The Dogs Act 1906; The Dangerous Dogs Act 1991; The Zoo Licensing Act 1981;	Head of H,EH & TS
E5  E6	<p>Authorised Functions contained in this paragraph are those arising under legislation which confers functions upon the Council with respect to dog wardens, stray dogs, dog fouling, dangerous dogs, including stated legislation and other legislation of a like kind.</p> <p>Paragraph 13a Appointment in exercise of the power conferred upon the council by S51 of the Animal Welfare Act 2006 to act as an inspector for the purposes of the said Act.</p>	Dogs Act 1871, Dogs Act 1906, Road Traffic Act 1988, Animal Health Act 1981, Environmental Protection Act 1990 (as amended), Dangerous Dogs Act 1991, The Clean Neighbourhoods and Environment Act 2005, The Animal Welfare Act 2006	Head of H,EH & TS
E7	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37) <sup>60</sup> .	Head of H,EH & TS
E8	Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).	Head of H,EH & TS

No	Function	Statute or Regulation	Delegation (& conditions)
E9	Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).	Head of H,EH & TS
E10	Power to enforce in respect to animal feeds	Agriculture Act 1970	Head of H,EH & TS
E11		Animal Feed (Composition, Marketing and Use) (England) Regulations 2015	Head of H,EH & TS
E12		Animal Feed (Hygiene, Sampling etc and Enforcement) (England) Regulations 2015	Head of H,EH & TS
	European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:		
E13		Animal Feed (Basic Safety Standards) (England) Regulations 2019	Head of H,EH & TS
E14		Genetically Modified Organisms (Traceability and Labelling)(England) Regulations 2004	Head of H,EH & TS
E15		Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 in so far as it relates to feed law	Head of H,EH & TS
E16		Official Feed and Food Controls (England) Regulations 2009 in so far as it relates to feed law	Head of H,EH & TS
<b>F</b>	<b>CHARITIES &amp; MARRIAGES</b>		
F1	Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44)	
F2	Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c. 76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)	Head of Revenues, Benefits, Library and Resident Services
<b>G</b>	<b>VILLAGE GREENS AND COMMON LAND</b>		
G1	Power to register common land or town or village greens,	Regulation 6 of the Commons Registration (New	Rights of Way & Highways Licensing Panel



<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
	except where the power is exercisable solely for the purpose of giving effect to—	Land) Regulations 1969 (S.I. 1969/1843).	
	(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or		Head of Law
	(b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).		Head of Law
G2	Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)	Rights of Way & Highways Licensing Panel
G3	Functions relating to the registration of common land and town or village greens.	Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)	Rights of Way & Highways Licensing Panel
G4	Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006.	Head of Law
G5	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006.	Head of Law
G6	Power to exercise all other Council's powers and duties in relation to the registration of Commons and Towns and Village Greens		Head of Law
G7	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006.	Head of Law
<b>H. HIGHWAYS AND ROADS</b>			
H1	<b>Street Naming and Numbering</b>	Public Health Act 1925	Head of Neighbourhood Services

No	Function	Statute or Regulation	Delegation (& conditions)
	To serve statutory notices, the naming of streets and numbering of properties under any duty or power	Towns Improvement Clauses Act 1847	
H2	<b>Berkshire Act Vesting</b> to make application to the County Court for an order vesting former highway land in the highway authority.	Section 7 of the Berkshire Act 1986	Head of Law
H3	<b>Berkshire Act Verges</b> to recover from the person responsible the cost of making good damage caused to a grass verge or footway of a highway by any person carrying on building operations or delivering goods to premises in the course of trade.	Section 9 of the Berkshire Act 1986	Head of Law
H4	Making of agreements for the execution of highways works including the issuing of certificates in respect to the adoption of the highways.	Section 278 & s38 of the Highways Act 1980 (c.66)	
H5	Power to authorise creation, diversion, extinguishment or stopping up or diversion of highway.	Including Section 247 of the TCPA1990 (c.8).	Head of Neighbourhood Services
H6	Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c. 22).	Head of Neighbourhood Services
H7	Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980 (c. 66).	Head of Neighbourhood Services
H8	Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980	Head of Neighbourhood Services
H9	Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.	Head of Neighbourhood Services

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No	Function	Statute or Regulation	Delegation (& conditions)
H10	Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.	Head of Neighbourhood Services
H11	Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.	Head of Neighbourhood Services
H12	Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.	Head of Neighbourhood Services
H13	Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.	Head of Neighbourhood Services
H14	Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.	Head of Neighbourhood Services
H15	Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980 <sup>68</sup> .	Head of Neighbourhood Services
H16	Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.	Head of Neighbourhood Services
H17	Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).	Head of Neighbourhood Services
H18	To maintain safety of platforms erected or used on public occasions	Public Health Act 1890	Head of Neighbourhood Services (when on highway/amenity land)
<b>I TRAFFIC</b>			
I1	Authority to prepare, consult upon and advertise permanent orders and statutory notices.	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services Parking and Enforcement Manager

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
12	Prepare, consult and design any traffic regulation or management scheme which is included in any Traffic Management Work Programme or is intended to facilitate the carrying out of any new development	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services
13	To authorise the variation of the effect of any Experimental Traffic Regulation Order made pursuant to (d) below.	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services
14	<p>To advertise, consult, notify and otherwise carry out all statutory procedures (including the making of any required Experimental Traffic Regulation Order) in respect of any scheme for which the preparatory work has been carried out.</p> <ul style="list-style-type: none"> <li>- where a Permanent Traffic Regulation Order is required in respect of the scheme and no objections are received to the proposal to make the order, <b>decision to</b> make and seal the order; and</li> <li>- where an Experimental Traffic Regulation Order has been made and no objections have been received in response to it, <b>decision to:</b> <ul style="list-style-type: none"> <li>- make and seal a further Order modifying the provisions of the Order pursuant to (c) above; and</li> <li>- make and seal a Permanent Order continuing indefinitely the provisions of the Experimental Order.</li> </ul> </li> </ul>	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services
15	Decision to carry out all necessary notification and other statutory procedures in respect of the installation of any pedestrian crossing.	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services
16	To carry out all preparatory work for the making of Temporary Traffic Regulation Orders and Notices under the	Road Traffic Regulation Act 1984	Head of Neighbourhood Services Parking and Enforcement Manager

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No	Function	Statute or Regulation	Delegation (& conditions)
	or otherwise and to determine and levy charges.	Road Traffic Act 1991	
17	Decision to authorise the making and sealing of Temporary Traffic Regulation Orders and Notices under the Road Traffic Regulation Act 1984 or otherwise.	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services Parking and Enforcement Manager
18	To make and execute Temporary Traffic Notices under the Road Traffic Regulation Act 1984	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services Parking and Enforcement Manager
19	Where an order or notice pursuant to the Road Traffic Regulation Act 1984 or otherwise is necessary to implement a minor change, <b>decision to</b> carry out statutory advertisement, consultation and notification and all other measures required prior to making the order or notice and, where a Traffic Regulation Order is required in respect of the minor change and no substantial objections are received to the proposal, to make and seal the order	Road Traffic Regulation Act 1984 Road Traffic Act 1991	Head of Neighbourhood Services Parking and Enforcement Manager
110	Authority to prepare detailed designs in respect of any traffic regulation order that is required as a result of reviewing existing parking restrictions within the Civil Enforcement Area and Special Enforcement Area as required under the Road Traffic Act 1991.	Road Traffic Act 1991	Head of Neighbourhood Services Parking and Enforcement Manager
111	Where any traffic regulation order or parts of an order advertised is unopposed, and it appears expedient to introduce all or some of those parts immediately and before the introduction of the remainder of the proposal, <b>decision to</b> authorise the sealing of an Order in respect of those parts	Road Traffic Act 1991	Head of Neighbourhood Services Parking and Enforcement Manager
112	<b>Street Fairs - Temporary Road Closure</b> To approve applications for temporary road closures if no substantial objections arise from the consultative process.	Section 21 of the Town Police Clauses Act 1847	Head of Neighbourhood Services
113	<b>Speed Limits</b>		Head of Neighbourhood Services

No	Function	Statute or Regulation	Delegation (& conditions)
	To initiate Speed Limit Orders together with the advertisement and sealing of these orders, if no substantial objections are received.		
114	<b>Traffic Signs</b> To deal with all matters relating to the erection, alteration, maintenance and removal of traffic signs, signals and road markings		Head of Neighbourhood Services
115	Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Sections 115E, 115F and 115K of the Highways Act 1980.	Head of Neighbourhood Services
<b>J Rights of Way</b>			
J1	Power to create footpath , bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980 (c. 60).	Rights of Way & Highways Licensing Panel
J2	Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J3	Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980	Head of Neighbourhood Services
J4	Power to stop up footpaths , bridleways and restricted byways	Section 118 of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J5	Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980.	Rights of Way & Highways Licensing Panel
J6	Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J7	Power to make a special extinguishment order.	Section 118B of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J8	Power to divert footpaths , bridleways and restricted byways.	Section 119 of the Highways Act 1980	Rights of Way & Highways Licensing Panel

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
J9	Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J10	Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.	Rights of Way & Highways Licensing Panel
J11	Power to make a special diversion order.	Section 119B of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J12	Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980	Head of Neighbourhood Services
J13	Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980	Rights of Way & Highways Licensing Panel
J14	Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980	Head of Neighbourhood Services
J15	Power to decline to determine certain applications.	Section 121C of the Highways Act 1980	Head of Neighbourhood Services
J16	Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980	Head of Neighbourhood Services
J17	Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980	Head of Neighbourhood Services
J18	Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.	Head of Neighbourhood Services
J19	Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway	Section 135 of the Highways Act 1980.	Head of Neighbourhood Services
J20	Power temporarily to divert footpath, bridleway or restricted byway	Section 135A of the Highways Act 1980. Section 135B of the Highways Act 1980.	Rights of Way & Highways Licensing Panel
J21	Functions relating to the making good of damage and the removal of obstructions		Head of Neighbourhood Services
J22	Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.	Head of Neighbourhood Services
J23	Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981 (c.	Rights of Way & Highways Licensing Panel

No	Function	Statute or Regulation	Delegation (& conditions)
		67).	
J24	Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c. 69)	Head of Neighbourhood Services
J25	Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981	Head of Neighbourhood Services
J26	Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981	Head of Neighbourhood Services
J27	Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981	Head of Neighbourhood Services
J28	Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984 (c. 38)	Head of Neighbourhood Services
J29	Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c. 68)	Rights of Way & Highways Licensing Panel
J30	Power to make limestone pavement order (section 34(2) of the Wildlife and Countryside Act 1981 (c.69)).		Head of Neighbourhood Services
J31	Power to authorise stopping-up or diversion of footpath , bridleway or restricted byway.	Section 257 of the TCPA1990	Rights of Way & Highways Licensing Panel
J32	Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the TCPA1990	Rights of Way & Highways Licensing Panel
J33	Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000 (c. 37).	Head of Neighbourhood Services
J34	Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.	Head of Neighbourhood Services
<b>K</b>	<b>PARKING</b>		

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No	Function	Statute or Regulation	Delegation (& conditions)
K1	To carry out all necessary work with regard to parking enforcement within the Borough to include the following:	Road Traffic Act 1991 and Traffic Management Act 2004	
K2	a) To deal with all matters relating to the issuing and processing of Penalty Charge Notices, including determining representations made against the Notices, cancellation of Penalty Charge Notices and all subsequent actions regarding non-payment of notices.		
K3	b) To deal with all matters relating to the processing of appeals against the issue of Penalty Charge Notices that have been made to the National Parking Adjudication Service, including where necessary, not to contest appeals and cancellation of Penalty Charge Notices		
169 K4	<b>Minor changes to the Controlled Parking Zone</b> (a) Authority to implement minor changes to the extent and operation of the Controlling Parking Zone.		
K5	<b>Parking Facilities</b> To determine requests for the use of off-street car parks and on-street parking where restrictions are in place under a traffic regulation order, and to grant or refuse permission to individuals or organisations for their use.		
K6	<b>Disabled Persons Parking Badges (Blue Badge Scheme)</b> To determine applications for and to issue Blue Badges, and to withdraw the facilities offered under the Blue Badge Scheme if there is evidence of on-going misuse, (even if the badge is not issued by the authority).		
K7	<b>Issuing of Parking Permits</b> To carry out all necessary work relating to the issue of parking permits within designated controlled parking zones (permitted parking areas and residents' parking schemes)		

No	Function	Statute or Regulation	Delegation (& conditions)
	within the Civil Enforcement Area and Special Enforcement Area.		
K8	<p><b>Off-Street Parking Orders</b> To include land within an appropriate parking order and designate land as an off-street parking place.</p>		
<b>L TRANSPORT</b>			
170	<p><b>L1 Passenger Transport Contracts</b> Authority to: -</p> <ul style="list-style-type: none"> <li>- Change the award of a passenger transport service contract where the lowest tenderer declines to take up the contract, or where the contractor is unable to fulfil the terms of the contracts.</li> <li>- To impose penalties on/provide incentives to contractors in accordance with the terms and conditions of the contract.</li> <li>- To terminate a passenger transport service contract, where it is considered that the contractor will not challenge the decision.</li> <li>- Where an Operator has given legal notice of the termination of a commercial or supported service, and where considered desirable, to award an emergency contract for up to six months. During this period, the emergency provision will be reviewed, and where necessary, a tender invited for a substantive contract.</li> </ul> <p>To make changes to passenger transport service contracts that are considered necessary as a result of emergencies, infrastructure works, special events and development schemes.</p> <p>To make adjustments within agreed budgets to supported bus services in response to withdrawn or commercialised</p>		

No	Function	Statute or Regulation	Delegation (& conditions)
	services		
L2	<p><b>Bus and Coach Stops &amp; Stands, Taxi Ranks</b>                      To exercise powers for installation, maintenance, re-siting and removal including poles and flags, shelters, raised platforms, road markings, information displays, CCTV and litter bins.                       Determining service allocations.</p>		
L3	<p><b>Traffic Regulation Conditions</b>                      To make an application to the Traffic Commissioner for the imposition of conditions on local bus services where required to regulate their routes and/or stopping place/locations/times/duration.</p>		
L4	<p><b>Goods Vehicles Operators' Licences</b>                      To make representations about, negotiate improvements or submit objections to any licence application where considered necessary. Present evidence at any subsequent public inquiry.</p>		
L5	Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001 (c.3).	
<b>M</b>	<b>CONSUMER PROTECTION</b>		
M1	<p>Authorised Functions contained in this paragraph are those arising under Consumer Protection legislation and includes powers arising under the Explosives Acts which can be enforced by local authority officers, together with the Council's powers relating to age restricted sales and all legislation which confers duties and powers upon the Council in its capacity as Weights and Measures Authority as defined under Section 69 of the Weights and Measures Act 1985, including the Consumer rights Act 2015.</p>	Weights and Measures Act 1985 and Consumer Rights Act 2015	Head of H,EH & TS
<b>N</b>	<b>FOOD SAFETY</b>		

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
N1	<p>Authorised Food Safety functions include those arising under the stated legislation and other legislation governing food and food hygiene, including all legislation which confers duties or powers upon the Council in its capacity as Food Authority as described under Section 5 of the Food Safety Act 1990 and in its capacity as enforcement authority for such legislation</p> <p>Authorised functions contained in this paragraph are those arising under the Agriculture Act 1970 and legislation governing the importation, manufacture, storage and marketing of animal feed materials, animal feeding stuffs and related materials and fertilizers, and include all legislation which confers duties or powers upon the Council in its capacity as enforcement authority in accordance with Section 67 of the Agriculture Act 1970 or competent body in accordance with Regulation 3 of The Official Feed and Food Controls (England) Regulations 2009 and Regulation 4 of The Feed (Hygiene and Enforcement) (England) Regulations 2013. This officer is appointed as an inspector pursuant to section 67(3)(a) of the Agriculture Act 1970.</p> <p>Authorised Officer appointed pursuant to Regulation 12 of Transmissible Spongiform Encephalopathies (No2) Regulations 2006 to act as an inspector for the purposes of these Regulations.</p>	<p>Agriculture Act 1970, The Food Safety Act 1990, The General Food Regulations 2004, The Food Safety and Hygiene (England) Regulations 2013, The Official Feed and Food Controls (England) Regulations 2009, The Trade in Animals and Related Product Regulations 2011, Transmissible Spongiform Encephalopathies (No2) Regulations 2006, Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018</p>	
N2	<p>Part I of Act Appointed by virtue of an authorisation issued by the Secretary of State to act as an investigation and enforcement officer under provisions specified by the Secretary of State.</p> <p>Part III of Act : Authority to exercise the duties and powers contained in this part of the Act, and any delegated legislation made there under, concerning the control of pesticides etc. This authority should be extended to all</p>	<p><b>Food and Environmental Protection Act 1985</b></p>	

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
	officers under HSWA74, although it may be extended to other officers authorised under a range of Acts.		
N3	Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)	
N4	Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).	
N5	Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)	
N6	Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).	
N7	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).	
N8	Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).	
N9	Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
N10	Power to register fishing vessels on board which shrimps or molluses are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
N11	Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations	

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No	Function	Statute or Regulation	Delegation (& conditions)
		1998.	
N12	Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
N13	Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).	
N14	Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.	
<b>O ALCOHOL LICENSING</b>			
174 O1	Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (c. 13) and any regulations made under that Chapter.	Head of H,EH & TS
O2	Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001 (c. 16). <sup>97</sup>	Head of H,EH & TS
O3	Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006 (c. 38)	Head of H,EH & TS
<b>P HEALTH AND SAFETY</b>			
P1	Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974 (c. 37)	Head of H,EH & TS

No	Function	Statute or Regulation	Delegation (& conditions)
P2	<p>Appointed in exercise of the power conferred upon the council by Section 19(1) of the Health and Safety at Work etc. Act 1974 to act as an inspector for the purposes of the Act.</p> <p>Parag. 8a To sign, on behalf of the authority, authorisations of persons to accompany appointed inspectors in the exercise of their functions under the Act.</p> <p>Parag. 8b To approve, on behalf of the authority, transfer and assignments of premises between Bristol City Council and the Health and Safety Executive in accordance with Regulations 5 and 6 of The Health and Safety (Enforcing Authority) Regulations 1998.</p>		Head of H,EH & TS
P3	i) Sections 20, 21, 22 and 25 of the 1974 Act;	The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003	Head of H,EH & TS
P4	ii) The following Regulations made under the 1974 Act:	The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013	Head of H,EH & TS
P5		The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009	Head of H,EH & TS
P6		The Dangerous Substances and Explosive Atmospheres Regulations 2002,	Head of H,EH & TS
P7		The Explosives Regulations 2014	Head of H,EH & TS
<b>Q</b>	<b>PUBLIC HEALTH</b>		
Q1	<p>Public Health legislation, Health Protection Regulations and Relevant Licensing or Registration</p> <p>The local authority appoints a proper officer for the purpose of receiving and forwarding information about notifications within their area. In the majority of cases, local authorities</p>	Public Health (Control of Disease) Act 1984 (as amended) together with the Health Protection (Local Authority Powers) Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010 and International Health Regulations 2005.	Head of H,EH & TS

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No	Function	Statute or Regulation	Delegation (& conditions)
	have decided to appoint a consultant in communicable disease control/health protection based within the local Public Health England (PHE) office as their proper officers.		
<b>R SMOKE-FREE PREMISES</b>			
R1	Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the 2006 Act.	Head of H,EH & TS
R2	Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the 2006 Act.	Head of H,EH & TS
R3	Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the 2006 Act	Head of H,EH & TS
R4	Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368).	Head of H,EH & TS
R5	Power to promote or oppose local or personal Bills	Section 239 of the Local Government Act 1972.	Head of H,EH & TS
<b>S HOUSING</b>			
S1	Homelessness acceptances	(Part 7, Housing Act 1996)	Head of H,EH & TS
S2	Suitability of temporary accommodation (Part 7, Section 202, Housing Act 1996)		Head of H,EH & TS
S3	Suitability of a permanent offer of accommodation (Part 7, Housing Act 1996)		Head of H,EH & TS
S4	Storage of possessions (Part 7, Section 212, Housing Act 1996)		Head of H,EH & TS
S5	Extend interim accommodation pending review		Head of H,EH & TS

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
S6	Review of negative decision (Part 7, Section 202, Housing Act 1996)		Head of H,EH & TS
S7	End family hostel or satellite temporary accommodation (BCC in-house)		Head of H,EH & TS
S8	Home choice banding -lower priority housing applications (bands 3 and 4) (Part 6, Housing Act 1996)		Head of H,EH & TS
S9	Home choice banding – higher priority housing applications (bands 1 and 2) (Part 6, Housing Act 1996)		Head of H,EH & TS
177 S10	Home choice banding – applicants with health needs (bands 1 and 3) (Part 6, Housing Act 1996)		Head of H,EH & TS
S11	Banding reviews (Part 6, Housing Act 1996)		Head of H,EH & TS
S12	Banding and allocations that are exceptions to Home choice policy (Part 6, Housing Act 1996)		Head of H,EH & TS
S13	Home choice – not eligible (Part 6, Housing Act 1996)		Head of H,EH & TS
S14	Decision to prosecute a landlord	Protection from Eviction Act 1977	Head of H,EH & TS
S15	Payments to private sector landlords – deposit bonds and financial incentives		Head of H,EH & TS
S16	Tenancy rescue payments		Head of H,EH & TS

No	Function	Statute or Regulation	Delegation (& conditions)
S17	Priority levels for homeless households on the Housing Support Register		Head of H,EH & TS
S18	Private Sector Housing and Accessible Homes Includes licensing of private rented properties and all private housing related enforcement including empty properties, tenancy relations, housing renewal functions and the management of gypsy and travellers sites. Adaptations to homes,		Head of H,EH & TS
S19	All general and enforcement responsibilities duties of the Lead enforcement authority as conferred by the Tenants Fees Act 2019	Tenants Rights Act 2019	Head of H,EH & TS
<b>T ECONOMIC DEVELOPMENT &amp; CULTURE</b>			
178 T1	<b>All functions relating to Culture including (but not exclusively):</b> - bidding for small scale funding Bids - Awarding of small scale arts grants - Support of the cultural sector - Operational running of our venues - Events in the Borough - Delivery of Modern Records function (statutory)		
T2	<b>All functions relating to Libraries including (but not exclusively):</b> - Management and maintenance of Libraries - Maintenance and purchasing of materials for reference and loan - Statutory responsibility for providing a library service		Head of Revenues, Benefits, Library and Resident Services

No	Function	Statute or Regulation	Delegation (& conditions)
T3	<b>Functions relating to Economic Development including (but not exclusively):</b> <ul style="list-style-type: none"> <li>- Economic development strategy and policy</li> <li>- Inward investment and business retention</li> <li>- Business Support</li> <li>- Business Engagement</li> <li>- Destination management and tourism</li> </ul>		
T4	Power to make, amend, revoke, re-enact or enforce byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c. 30).	
<b>U TREES</b>			
U1	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).	
U2	Powers relating to the preservation of trees.	Sections 197 to 214D of the TCPA1990, and the Town and Country Planning (Tree Preservation)(England) Regulations 2012	
U3	Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003	
<b>V BUILDING REGULATIONS</b>			
V1	<b>Functions relating to Building Regulations and Standards, including:</b> <ul style="list-style-type: none"> <li>• Authorise proceeding for contraventions</li> <li>• Statutory building control service</li> <li>• Enforcement of the building regulations</li> <li>• Control of demolitions</li> </ul>	Buildings Act 1984	

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No	Function	Statute or Regulation	Delegation (& conditions)
	<ul style="list-style-type: none"> <li>• Appointee of 3<sup>rd</sup> Party Wall surveyor under the Party Wall Act 1996</li> <li>• Control of Dangerous Structures</li> </ul>		
<b>W ENVIRONMENTAL PROTECTION/ NUISANCE / CLEAN NEIGHBOURHOODS</b>			
W1	<p>Functions including enforcement with respect to any of the following: waste disposal, statutory nuisance, pollution (including but not limited to noise, air, land and water pollution), pest control, disinfection, disinfestations, public health, buildings not secured against unauthorised entry, and accumulations which are detrimental to the amenity of an area, Community Protection Notices, including but not limited to those contained in the following legislation and other legislation of a like kind.</p>	<p>Control of Pollution Act 1974, Refuse Disposal (Amenity) Act 1978, Highways Act 1980, Building Act 1984, the Town and Country Planning Act 1990, the Environmental Protection Act 1990 (as amended), the Clean Air Act 1993, Criminal Justice &amp; Public Order Act 1994, the Noise Act 1996 (as amended), the Pollution Prevention and Control Act 1999, the Clean Neighbourhoods and Environment Act 2005, the Environmental Permitting (England and Wales) Regulations 2010 (as amended), Anti-social Behaviour, Crime and Policing Act 2014 Prevention of Damage by Pest Act 1949, Public Health Acts 1936 &amp; 1961, The Environmental Protection Act 1990 The Clean Neighbourhoods and Environment Act 2005</p>	Head of H,EH & TS
W2	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40)	Head of H,EH & TS
W3	The obtaining of particulars of persons interested in land	section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Head of Service (any)
W4	Any function relating to contaminated land	Part 11A of the Environmental Protection Act 1990	Head of H,EH & TS
W5	The discharge of any function relating to the control of pollution or the management of air quality	Pollution Prevention and Control Act 1999 (c.24), Part IV of the Environment Act 1995 (c.25), Part I of the Environmental Protection Act 1990 (c.43)	Head of H,EH & TS

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No	Function	Statute or Regulation	Delegation (& conditions)
		and the Clean Air Act 1993 (c.11)	
W6	The inspection and investigation of the authority's area to detect any statutory nuisance	Section 79 of the Environmental Protection Act 1990	Head of H,EH & TS
W7	The service of an abatement notice in respect of a statutory nuisance	Section 80(1) of the Environmental Protection Act 1990	Head of H,EH & TS
<b>X</b>	<b>PARKS AND GREEN SPACES</b>		
X1	Management and Maintenance of Parks and Green Spaces including allotments, children's play, sports pitches, buildings and facilities.		Head of Neighbourhood Services
X2	Management and Maintenance of Cemeteries and Crematoria		Head of Neighbourhood Services
X3	Management of catering, cafes and concessions in Parks and Green Spaces		Head of Neighbourhood Services
X4	Tree management in parks, green spaces and other council land		Head of Neighbourhood Services
<b>Y</b>	<b>WATER &amp; FLOODING</b>		
Y1	Discharging of the powers and duties as Lead Local Flood Authority	Flood and Water Management Act 2010	Principal Flood Risk Manager
Y2	Discharging of powers and statutory duties	Land Drainage Act 1991	Principal Flood Risk Manager
<b>Z</b>	<b>FOOD HYGIENE AND STANDARDS</b>		
Z1	European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:	Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations 2015	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
Z2		Country of Origin of Certain Meats (England) Regulations 2015	Head of H,EH & TS
Z3		Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020	Head of H,EH & TS
Z4		Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016	Head of H,EH & TS
Z5		Food Information Regulations 2014	Head of H,EH & TS
Z6		Food Safety and Hygiene (England) Regulations 2013	Head of H,EH & TS
Z7		Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004	Head of H,EH & TS
Z8		Materials and Articles in Contact with Food (England) Regulations 2012	Head of H,EH & TS
Z9		Novel Foods (England) Regulations 2018	Head of H,EH & TS
Z10		Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 in so far as it relates to food law	Head of H,EH & TS
Z11		Official Feed and Food Controls (England) Regulations 2009 in so far as it relates to food law	Head of H,EH & TS
Z12		Olive Oil (Marketing Standards) Regulations 2014	Head of H,EH & TS
Z13		Organic Products Regulations 2009	Head of H,EH & TS
Z14		Poultrymeat (England) Regulations 2011	Head of H,EH & TS
Z15		Quick-frozen Foodstuffs (England) Regulations 2007	Head of H,EH & TS
Z16		Scotch Whisky Regulations 2009	Head of H,EH & TS
Z17		Specified Products from China (Restrictions on First Placing on the Market)	Head of H,EH & TS
Z18		(England) Regulations 2008	Head of H,EH & TS
Z19		Spirit Drinks Regulations 2008	Head of H,EH & TS
Z20		Wine Regulations 2011	Head of H,EH & TS

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
Z21		Food and Environment Protection Act 1985 (SoS approval required)	Head of H,EH & TS
Z22		Food Safety Act 1990	Head of H,EH & TS
Z23		The Addition of Vitamins, Minerals and Other Substances (England) Regulations 2007	Head of H,EH & TS
Z24		The Animal By-Products (Enforcement) (England) Regulations 2013	Head of H,EH & TS
Z25		The Beef and Veal Labelling Regulations 2010	Head of H,EH & TS
Z26		The Bread and Flour Regulations 1998	Head of H,EH & TS
Z27		The Caseins and Caseinates (England) Regulations 2017	Head of H,EH & TS
Z28		The Cocoa and Chocolate Products (England) Regulations 2003	Head of H,EH & TS
Z29		The Coffee Extracts and Chicory Extracts (England) Regulations 2000	Head of H,EH & TS
Z30		The Condensed Milk and Dried Milk (England) Regulations 2015	Head of H,EH & TS
Z31		The Contaminants in Food (England) Regulations 2013	Head of H,EH & TS
Z32		The Country of Origin of Certain Meats (England) Regulations 2015	Head of H,EH & TS
Z33		The Drinking Milk (England) Regulations 2008	Head of H,EH & TS
Z34		The Fish Labelling Regulations 2013	Head of H,EH & TS
Z35		The Food (Lot Marking) Regulations 1996	Head of H,EH & TS
Z36		The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013	Head of H,EH & TS
Z37		The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009	Head of H,EH & TS
Z38		The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
Z39		The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016	Head of H,EH & TS
Z40		The Food Irradiation (England) Regulations 2009	Head of H,EH & TS
Z41		The Food Supplements (England) Regulations 2003	Head of H,EH & TS
Z42		The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997	Head of H,EH & TS
Z43		The Foodstuffs Suitable for People Intolerant to Gluten (England) Regulations 2010	Head of H,EH & TS
Z44		The Fruit Juices and Fruit Nectars Regulations 2013	Head of H,EH & TS
Z45		The General Food Regulations 2004	Head of H,EH & TS
Z46		The Genetically Modified Food (England) Regulations 2004	Head of H,EH & TS
Z47		The Honey (England) Regulations 2015	Head of H,EH & TS
Z48		The Infant Formula and Follow-on Formula (England) Regulations 2007	Head of H,EH & TS
Z49		The Jam and Similar Products (England) Regulations 2003	Head of H,EH & TS
Z50		The Kava-kava in Food (England) Regulations 2002	Head of H,EH & TS
Z51		The Materials and Articles in Contact with Food (England) Regulations 2012	Head of H,EH & TS
Z52		The Meat (Enhanced Enforcement Powers) (England) Regulations 2000	Head of H,EH & TS
Z53		The Meat Products (England) Regulations 2003	Head of H,EH & TS
Z54		The Medical Food (England) Regulations 2000	Head of H,EH & TS
Z55		The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007	Head of H,EH & TS
Z56		The Novel Foods (England) Regulations 2018	Head of H,EH & TS
Z57		The Novel Foods and Novel Food Ingredients Regulations 1997	Head of H,EH & TS
Z58		The Nutrition and Health Claims (England) Regulations 2007	Head of H,EH & TS
Z59		The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019	Head of H,EH & TS



<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
Z60		The Official Feed and Food Controls (England) Regulations 2009	Head of H,EH & TS
Z61		The Olive Oil (Marketing Standards) Regulations 2014	Head of H,EH & TS
Z62		The Plastic Kitchenware (Conditions on Imports from China) (England) Regulations 2011	Head of H,EH & TS
Z63		The Preserved Sardines (Marketing Standards) Regulations 1990	Head of H,EH & TS
Z64		The Preserved Tuna and Bonito (Marketing Standards) Regulations 1994	Head of H,EH & TS
Z65		The Private Water Supplies (England) Regulations 2016	Head of H,EH & TS
Z66		The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003	Head of H,EH & TS
Z67		The Products Containing Meat etc. (England) Regulations 2014	Head of H,EH & TS
Z68		The Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018	Head of H,EH & TS
Z69		The Quick-frozen Foodstuffs (England) Regulations 2007	Head of H,EH & TS
Z70		The Specified Products from China (Restriction on First Placing on the Market) (England) Regulations 2008	Head of H,EH & TS
Z71		The Specified Sugar Products (England) Regulations 2003	Head of H,EH & TS
Z72		The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (England) Regulations 2008	Head of H,EH & TS
Z73		The Trade in Animals and Related Products Regulations 2011	Head of H,EH & TS
Z74		The Transmissible Spongiform Encephalopathies (England) Regulations 2018	Head of H,EH & TS
<b>AA</b>	<b>TRADING STANDARDS</b>		

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
AA1		Agriculture (Miscellaneous Provisions) Act 1968	Head of H,EH & TS
AA2		Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020	Head of H,EH & TS
AA3		Animal Health Act 1981	Head of H,EH & TS
AA4		Animal Welfare Act 2006	Head of H,EH & TS
AA5		Animals Act 1971	Head of H,EH & TS
AA6		Anti-social Behaviour Act 2003	Head of H,EH & TS
AA7		Brucellosis (England) Order 2015	Head of H,EH & TS
AA8		Cancer Act 1939	Head of H,EH & TS
AA9		Children and Families Act 2014	Head of H,EH & TS
AA10		Children and Young Persons (Protection from Tobacco) Act 1991	Head of H,EH & TS
AA11		Children and Young Persons Act 1933	Head of H,EH & TS
AA12		Clean Air Act 1993 – Motor Fuel (Composition and Content) Regs.	Head of H,EH & TS
AA13		Companies Act 2006	Head of H,EH & TS
AA14		Consumer Credit Act 1974	Head of H,EH & TS
AA15		Consumer Protection Act 1987	Head of H,EH & TS
AA16		Consumer Rights Act 2015	Head of H,EH & TS
AA17		Copyright, Designs and Patents Act 1988	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
AA18		Criminal Justice Act 1988	Head of H,EH & TS
AA19		Criminal Justice and Police Act 2001	Head of H,EH & TS
AA20		Customs & Excise Management Act 1979	Head of H,EH & TS
AA21		Education Reform Act 1988	Head of H,EH & TS
AA22		Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	Head of H,EH & TS
AA23		Enterprise Act 2002	Head of H,EH & TS
AA24		Environmental Protection (Microbeads)(England) Regulations 2017	Head of H,EH & TS
AA25		Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020	Head of H,EH & TS
AA26		Estate Agents Act 1979	Head of H,EH & TS
AA27		Fireworks Act 2003	Head of H,EH & TS
AA28		Fraud Act 2006	Head of H,EH & TS
AA29		Hallmarking Act 1973	Head of H,EH & TS
AA30		Health Act 2006	Head of H,EH & TS
AA31		Knives Act 1997	Head of H,EH & TS
AA32		Legal Services Act 2007	Head of H,EH & TS
AA33		Medicines and Medical Devices Act 2021	Head of H,EH & TS
AA34		Motor Cycle Noise Act 1987	Head of H,EH & TS
AA35		Offensive Weapons Act 2019	Head of H,EH & TS

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
AA36		Olympic Symbol etc. (Protection) Act 1995	Head of H,EH & TS
AA37		Prices Act 1974	Head of H,EH & TS
AA38		Protection of Animals Act 1911	Head of H,EH & TS
AA39		Psychoactive Substances Act 2016	Head of H,EH & TS
AA40		Registered Designs Act 1949	Head of H,EH & TS
AA41		Road Traffic Acts 1988 and 1991	Head of H,EH & TS
AA42		Single Use Carrier Bags Charges (England) Order 2015	Head of H,EH & TS
AA43		Tenant Fees Act 2019	Head of H,EH & TS
AA44		and the Housing and Planning Act 2016 as it relates to Client Money Protection Schemes	Head of H,EH & TS
AA45		Theft Act 1968	Head of H,EH & TS
AA46		Tobacco Advertising and Promotion Act 2002	Head of H,EH & TS
AA47		Trade Descriptions Act 1968	Head of H,EH & TS
AA48		Trade Marks Act 1994	Head of H,EH & TS
AA49		Unsolicited Goods and Services Acts 1971 and 1975	Head of H,EH & TS
AA50		Video Recordings Act 1984	Head of H,EH & TS
AA51		Vehicles (Crime) Act 2001	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
AA52	European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:	Advanced Television Services Regulations 2003	Head of H,EH & TS
AA53		African Horse Sickness (England) Regulations 2012	Head of H,EH & TS
AA54		Animal By-Products (Enforcement)(England) Regulations 2013	Head of H,EH & TS
AA55		Avian influenza (Preventative Measures) (England) Regulations 2006	Head of H,EH & TS
AA56		Avian Influenza (Vaccination)(England) Regulations 2006	Head of H,EH & TS
AA57		Beef and Veal Labelling Regulations 2010	Head of H,EH & TS
AA58		Biofuel Labelling Regulations 2004	Head of H,EH & TS
AA59		Bluetongue Regulations 2008	Head of H,EH & TS
AA60		Business Protection from Misleading Marketing Regulations 2008	Head of H,EH & TS
AA61		Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008	Head of H,EH & TS
AA62		Cattle Identification Regulations 2007	Head of H,EH & TS
AA63		Construction Products Regulations 2013	Head of H,EH & TS
AA64		Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013	Head of H,EH & TS
AA65		Consumer Protection from Unfair Trading Regulations 2008	Head of H,EH & TS
AA66		Consumer Rights (Payment Surcharges) Regulations 2012	Head of H,EH & TS
AA67		Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009	Head of H,EH & TS
AA68		Crystal Glass (Descriptions) Regulations 1973	Head of H,EH & TS

<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
AA69		Detergents Regulations 2010	Head of H,EH & TS
AA70		Diseases of Swine Regulations 2014	Head of H,EH & TS
AA71		Issue 20 30 June 2021	Head of H,EH & TS
AA72		EC Fertilisers (England and Wales) Regulations 2006	Head of H,EH & TS
AA73		Eggs and Chicks (England) Regulations 2009	Head of H,EH & TS
AA74		Electrical Equipment (Safety) Regulations 2016	Head of H,EH & TS
AA75		Electromagnetic Compatibility Regulations 2016	Head of H,EH & TS
AA76		Energy Information Regulations 2011	Head of H,EH & TS
AA77		Energy Performance of Buildings (England and Wales) Regulations 2012	Head of H,EH & TS
AA78		Equine Identification (England) Regulations 2018	Head of H,EH & TS
AA79		Financial Services (Distance Marketing) Regulations 2004	Head of H,EH & TS
AA80		Fluorinated Greenhouse Gases Regulations 2015	Head of H,EH & TS
AA81		Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006	Head of H,EH & TS
AA82		Footwear (Indication of Composition) Labelling Regulations 1995	Head of H,EH & TS
AA83		Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018	Head of H,EH & TS
AA84		General Product Safety Regulations 2005	Head of H,EH & TS
AA85		Package Travel and Linked Travel Arrangements Regulations 2018	Head of H,EH & TS

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<b>No</b>	<b>Function</b>	<b>Statute or Regulation</b>	<b>Delegation (&amp; conditions)</b>
AA86		Packaging (Essential Requirements) Regulations 2015	Head of H,EH & TS
AA87		Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001	Head of H,EH & TS
AA88		Personal Protective Equipment (Enforcement) Regulations 2018	Head of H,EH & TS
AA89		Pressure Equipment (Safety) Regulations 2016	Head of H,EH & TS
AA90		Products of Animal Origin (Disease Control)(England) Regulations 2008	Head of H,EH & TS
AA91		Pyrotechnic Articles (Safety) Regulations 2015	Head of H,EH & TS
AA92		Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018	Head of H,EH & TS
AA93		Radio Equipment Regulations 2017	Head of H,EH & TS
AA94		REACH Enforcement Regulations 2008	Head of H,EH & TS
AA95		Recreational Craft Regulations 2017	Head of H,EH & TS
AA96		Registration of Establishments (Laying Hens)(England) Regulations 2003	Head of H,EH & TS
AA97		Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013	Head of H,EH & TS
AA98		Simple Pressure Vessels (Safety) Regulations 2016	Head of H,EH & TS
AA99		Supply of Machinery (Safety) Regulations 2008	Head of H,EH & TS
AA100		Textile Products (Labelling and Fibre Composition) Regulations 2012	Head of H,EH & TS
AA101		Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010	Head of H,EH & TS
AA102		Tobacco and Related Products Regulations 2016	Head of H,EH & TS
AA103		Toys (Safety) Regulations 2011	Head of H,EH & TS

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No	Function	Statute or Regulation	Delegation (& conditions)
AA104		Trade in Animals and Related Products Regulations 2011	Head of H,EH & TS
AA105		Transmissible Spongiform Encephalopathies (England) Regulations 2018	Head of H,EH & TS
AA106		Veterinary Medicines Regulations 2013	Head of H,EH & TS
AA107		Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012	Head of H,EH & TS
AA108		Welfare of Animals at Time of Killing (England) Regulations 2015	Head of H,EH & TS
AA109		Zoonoses (Monitoring) (England) Regulations 2007	Head of H,EH & TS
<b>AB</b>	<b>WEIGHTS &amp; MEASURES</b>		
192 AB1	European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:	Measuring Container Bottles (EEC Requirements) Regulations 1977	Head of H,EH & TS
AB2		Measuring Instruments Regulations 2016	Head of H,EH & TS
AB3		Non-automatic Weighing Instruments Regulations 2016	Head of H,EH & TS
AB4		Weights & Measures (Packaged Goods) Regulations 2006	Head of H,EH & TS
AB5		Weights and Measures Act 1985	Head of H,EH & TS
AB6		The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018	Head of H,EH & TS
AB7		The Ozone-Depleting Substances Regulations 2015	Head of H,EH & TS
AB8		Redress Schemes for Letting Agencies Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014	Head of H,EH & TS
AB9		Sunbeds (Regulation) Act 2010	Head of H,EH & TS



No	Function	Statute or Regulation	Delegation (& conditions)
AB10		Children and Young Persons Act 1933	Head of H, EH & TS
<b>AC</b>	<b>COUNTER TERRORISM</b>		
AC1	In compliance with the statutory requirements set out under sections 36 – 41 of the Counter Terrorism and Security Act 2015, RBWM has a Channel Panel in place for its area, has regard to the Channel Duty Guidance 2020 and is committed to complying with the requirements within it.	Counter Terrorism and Security Act 2015 Counter Terrorism and Border Security Act 2019	Head of Communities / Neighbourhoods
AC2	Authority for the making arrangements for the provision of a multi-agency Channel Panel to consider referrals and support for individuals at risk of being radicalised.	Counter Terrorism and Security Act 2015 Counter Terrorism and Border Security Act 2019	Head of Communities / Neighbourhoods
193 AC3	Authority for making arrangements for the provision of a multi-agency strategic Prevent Delivery Board to oversee the joint work on Prevent	Counter Terrorism and Security Act 2015 Counter Terrorism and Border Security Act 2019	Executive Director of Adults, Health and Housing

**Key**

<b>TCPA1990</b>	Town & Country Planning Act 1990	
<b>GDP1995</b>	Town and Country Planning (General Development Procedure) Order 1995	
<b>Head of H, EH &amp; TS</b>	Head of Housing, Environmental Health & Trading Standards	

**Version Control**

<b>Version</b>	<b>Date</b>	<b>Authority</b>	<b>Changes</b>	<b>Relevant Part of Part 5B Addendum-Place</b>
1.1	28/02/22		New document	All
1.2	01/04/22	Adele Taylor	Additions for Head of Revenues, Benefits, Library and Resident Services	F2 and T2
1.3	28/7/22	Andrew Durrant	Water and Flooding – Relevant officer	Y1 and Y2
1.4	20/12/22	Andrew Durrant	Clarification Head of Planning	A7 – A40

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**PART 6 - TERMS OF REFERENCE OF ALL  
OTHER COMMITTEES, PANELS AND  
OTHER BODIES OF THE COUNCIL**

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## A) PENSION

### A1 Berkshire Pension Fund Committee

#### A1.1 Purpose

To exercise the general powers and duties of an Administering Authority in the maintenance of the Royal County of Berkshire Pension Fund as may be required in accordance with the Superannuation Fund Act 1972, The Public Service Pensions Act 2013 and Local Government Pension Scheme Regulations existing under those Acts including, but not restricted to the following.

- (i) Setting of the Investment Strategy and Funding Strategy Statements and determination of the Strategic Asset Allocation of the Pension Fund's assets in the light of professional advice and other suitably qualified independent advice, legislative constraints and Codes of Practice.
- (ii) Responsibility for the statutory policies and administration of the Royal County of Berkshire Pension Fund maintained by the Administering Authority in accordance with the Local Government Pension Scheme Regulations, The Local Government Pension Scheme (Management of Investment of Funds) Regulations, all other associated legislation and Pension Regulator Codes of Practice.
- (iii) Determination of the arrangements for obtaining appropriate investment advice including the appointment of a suitably qualified independent person or persons to give expert advice on Pension Fund investment and management arrangements.
- (iv) The periodic review and monitoring of the Pension Fund's investment performance in line with the Advisory and Management Agreement entered into with the Local Pensions Partnership (Investments) Limited (LPPI).
- (v) To consider the Annual Report and Accounts of the Fund.
- (vi) The reporting of any breaches of the law to the Pensions Regulator.

#### A1.2 Membership

5 RBWM Councillors

N.B. A Cabinet Member may be a Member of the Berkshire Pension Fund Committee.

#### A1.3 Quorum

2 RBWM Councillors

#### A1.4 Frequency

Quarterly



## **A2 Berkshire Pension Fund Advisory Panel**

### **A2.1 Purpose**

To consider and make recommendations to the Berkshire Pension Fund Committee on all issues relating to the Fund as follows:

- (i) The investment policies of the Administering Authority, in the light of professional officer advice and other suitable qualified independent advice, legislative constraints and Codes of Practice.
- (ii) The statutory policies and administration of the Royal County of Berkshire Pension Fund maintained by the Administering Authority.
- (iii) The arrangements of obtaining appropriate investment advice, including the appointment of a suitably qualified independent person or persons to give expert advice on Pension Fund investment and management arrangements.
- (iv) The periodic review and monitoring of the Fund's investment performance.
- (v) The Annual Report and Accounts of the Fund.

### **A2.2 Membership**

5 persons comprising:

- One elected representative from each of Reading Borough Council, Slough Borough Council, West Berkshire Council, Bracknell Forest Council and Wokingham Borough Council;

The term of office for Members of the Advisory Panel should be set to run alongside the election cycle of the Administering Authority with Members being required to attend a minimum of 2 meetings per annum. Members of the Advisory Panel who fail to attend the minimum meeting requirement will be asked by the Berkshire Pension Fund Committee to step down and for a replacement to be appointed.

### **A2.3 Quorum**

2 Members

### **A2.4 Frequency**

As per the Pension Fund Committee schedule

## **A3 Local Pension Board**

### **A3.1 Purpose**

To assist the administering authority of The Royal County of Berkshire Pension Fund in securing compliance with the Local Government Pension Scheme Regulations, any other legislation relating to governance and administration of the Scheme and the requirements imposed by The Pensions Regulator including but not limited to:

- i) Challenge any failure to comply with the Scheme rules and associated legislation and any failure to meet the requirements and expectations of the Pensions Regulator;
- ii) Challenge any advice and guidance provided and to understand how that advice and guidance impacts on any decision for which the Board is legally responsible;
- iii) Monitor levels of performance of the administering authority and Scheme employers, review notices of unsatisfactory performance and determine what, if any, costs should be recovered by the Pension Fund where a failure to meet certain levels of performance have not been met;
- iv) Report breaches of the law to the Pensions Regulator where there is a reasonable cause to believe that a legal duty, which is relevant to the administration of the Scheme, has not been, or is not being, complied with as a result of which there is a likely material significance to the Pensions Regulator;
- v) Determine under what circumstances Scheme employers should be reported to the Pensions Regulator;
- vi) Keep under review the administering authority's communication policy with regard to Pension Scheme stakeholders;

### **A3.2 Membership**

6 comprising of:

- 3 Scheme Employer Representatives
- 3 Scheme Member Representatives

N.B. A Member of the Berkshire Pension Fund Panel or Berkshire Pension Fund Advisory Panel is not eligible for membership of the Pension Board neither are Royal Borough Officers who are involved with the administration or management of the Pension Fund.

### **A3.3 Quorum**

A meeting is only quorate when at least 50% of the Scheme member and Scheme Employer Representatives are present with at least 1 member being present from each group. For actions to be agreed, the Chairman or Vice Chairman must be in attendance. A meeting that becomes inquorate may continue but any decisions will be non-binding.

### **A3.4 Frequency**

At least bi-annually and up to 4 times per year.

## B) REGULATORY

### B1 Development Management Area Committees

#### B1.1 Purpose

(I) Within the operating guidelines and budget approved by the Council the Development Management Area Committees will determine applications relating to the following:

a. New full or outline planning applications, **regardless of recommendation**, falling into the definition of major development as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (or as superseded).

*Note: Section 73/73A applications or reserved matters applications are delegated matters unless called in under the call-in provisions in b) below.*

*Note: Any Crown applications which are covered by the National Security arrangements set out in the National Planning Policy Guidance are exempt from part a) and are delegated to the Head of Planning.*

b. Applications where a Borough councillor has requested that an application be called-in to be the subject of a decision by the relevant Area Development Management Committee (an application in this case being an application for Full, Outline, Hybrid or Householder Planning Permission or an application for Listed Building Consent. No other case types are the subject of the call-in provision.) This is conditional in that the call-in must:

- i) Be in writing using the Councillor call-in pro forma and received before the Neighbour Consultation Expiry Date for that application, and
- ii) Relate to an application in their own ward; and
- iii) provide a planning reason based on a material consideration for the call-in.

c. Where an application is made by a Councillor or a member of their family and there are one or more representations.

d. Where an application is made by an officer employed in a role which is directly involved in the decision making stage of the planning application process and there are one or more representations.

e. Any matter where authority is normally delegated to the Head of Planning, but where the Head of Planning chooses not to exercise their delegated authority and considers the matter should be referred to the relevant Area Borough Development Management Committee.

(II) All other functions regarding town and country planning and development management listed in Part A and related to trees and hedgerows listed in Part I of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the CIL regulations are to be delegated to the Head of Planning. All functions listed in the Localism

Act 2011 related to plan making and neighbourhood planning are delegated to the Head of Planning save for those which the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 require to be determined by Full Council. For the avoidance of doubt the Head of Planning also has delegated authority for those types of application subsequently introduced under the Town and Country Planning Acts (including secondary legislation and regulations) subject to the exceptions listed above.

(III) To advise the Council, the Cabinet, the Infrastructure Overview and Scrutiny Panel on the preparation, updating and monitoring of the Local Plan and policies relating to development management guidance.

### **B1.2 Membership of the Development Management Area Committees**

Each Committee shall have 9 members. One shall be the Chairman.

Membership shall be in line with political balance.

Members for the Maidenhead Development Management Committee will be drawn from Members representing the following wards:

Hurley & Walthams; Cox Green; Oldfield; Boyn Hill; St Mary's; Belmont; Riverside; Furze Platt; Pinkneys Green; Bisham & Cookham; Bray

Members for the Windsor and Ascot Development Management Committee will be drawn from Members representing the following wards:

Sunningdale & Cheapside; Ascot & Sunninghill; Old Windsor; Datchet, Horton & Wraysbury; Eton & Castle; Clewer East; Clewer & Dedworth West; Clewer & Dedworth East

Substitute Members for each Committee can be drawn from any ward.

A Cabinet Member may be a Member of an Area Development Management Committee but the Cabinet Member(s) holding the main portfolio for Planning shall not be permitted to be a Member.

### **B1.3 Quorum**

3 Members

### **B1.4 Frequency**

Meetings of each committee will take place once per calendar month, usually on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday of each month

Note: While the dates are ideally fixed they may be subject to change for reasons such as venue availability issues or may be on other days if additional extraordinary meetings of the Committee are required. Extraordinary meetings may be called by agreement of the Head of Planning with the Chairman of the Committee.

## **B2 Member Standards Panel**

### **B2.1 Purpose**

In relation to the Members of the Council:

- (i) To promote and maintain high standards of conduct by Members, co-opted Members, including church and parent governor representatives;
- (ii) To assist Members, co-opted members, including church and parent governor representatives, to observe the Members' Code of Conduct;
- (iii) To recommend to the Council on the adoption or revision of its Members' Code of Conduct;
- (iv) To monitor the operation of the Members' Code of Conduct.
- (v) Advising, training or arranging to train Members, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (vi) To consider an annual report on Member Standards by the Monitoring Officer.

### **B2.2 Membership**

8 Members

### **B2.3 Quorum**

3 Members

### **B2.4 Frequency**

As required

## **B3 Member Standards Sub Committee**

### **B3.1 Purpose**

To determine breaches of the Members' Code of Conduct in accordance with the procedure in Part 7A

### **B3.2 Membership**

2 selected from the existing Members (including substitutes) of the Member Standards Panel (politically balanced wherever possible) and one of the Council's Independent Persons acting as Chairman.

If the complaint relates to a Town or Parish Councillor then a co-opted Town or Parish Councillor may also be an additional member, but will have no voting rights.

### **B3.3 Quorum**

3 Members

### **B3.4 Frequency**

As required

## **B4 Appointment Committee**

### **B4.1 Purpose**

To determine arrangements for the appointment and conditions of service of the Chief Executive (who is appointed, on recommendation, by Council) and the Directors in accordance with Part 8B,

### **B4.2 Membership**

5 Members (politically balanced) to include Leader of the Council (Chairman), Deputy Leader of the Council (Vice Chairman) and relevant Cabinet Member if appropriate.

### **B4.3 Quorum**

3 Members

### **B4.4 Frequency**

As required

## **B5 Employment Appeals Sub Committee**

### **B5.1 Purpose**

To determine officer Disciplinary and Grievance Appeals in accordance with the Council's HR procedures

### **B5.2 Membership**

3 selected from the existing Members (including substitutes) of the Appointment Committee.

### **B5.3 Quorum**

3 Members

### **B5.4 Frequency**

As required

*N.B. Part 6 indexation and page numbering will be amended as necessary following approval of proposed changes*

As required

## **B6 Licensing Panel**

### **B6.1 Purpose**

- (i) The Licensing Panel will determine and keep under review:
  - a. the Statement of Licensing Policy
  - b. the Statement of Gambling Policy
  - c. the Hackney Carriage Policy and Conditions
  - d. the Private Hire Driver and Vehicle Policy and Conditions
  - e. the Street Trading Policy
  - f. the Sex Establishments Policy
  - g. the current Street Collections and House to House Collections Policy.
- (ii) The above Policies, as determined by the Licensing Panel, refer to certain delegations of functions to Officers. The Panel will keep these delegations under review and amend as necessary.
- (iii) To consult with members of the Hackney Carriage and Private Hire trade via their representative organisations on at least an annual basis in respect of proposed fee bands, enforcement, provision or ranks and other matters of concern to users and the trade and to make recommendations from time to time to the Council.
- (iv) To decide whether to arrange a survey on demand with regard to Hackney Carriages. (All other functions other than those delegated to the Licensing & PSPO Sub Committee which may be delegated to the Licensing Panel are to be delegated to Officers)

### **B6.2 Membership**

11 Members. N.B: A Cabinet Member may be a Member of the Licensing Panel

### **B6.3 Quorum**

3 Members

### **B6.4 Frequency**

Quarterly

## **B7 Licensing & Public Space Protection Order Sub Committee**

### **B7.1 Purpose**

The Licensing & PSPO Sub Committee will consider all matters relating to the following functions:

- i. Where an objection or representation is made for an application for or a variation to; a personal licence, a premises licence, a club premises certificate or a provisional statement.
- ii. Where a Police objection has been received in relation to an application for or to; vary a designated premises supervisor, a transfer of premises licence or Interim Authorities.
- iii. Where the authority must carry out a review of a premises licence.
- iv. Where an objection or representation is made for an Application for club gaming/club machine permits.
- v. Where there is a decision to be made for the cancellation of a club gaming or club machine permit.
- vi. Where there is a decision to be made to give a counter notice to a temporary use notice
- vii. Where an application for Licensed Premises Gaming Machine Permits involves over 4 machines.
- viii. Where a decision to object involves the local authority as a consultee and not as the relevant authority considering the application.
- ix. Where there is a determination of a Police objection to a temporary event notice.
- x. Where an application is received from a Sexual Entertainment Venue, including applications for existing premises
- xi. To consider the implementation of Public Space Protection Orders (PSPOs) within a single ward with regard to determining whether such an order should be made, extended, varied or discharged under Part 4 Chapter 2 of the Anti-social behaviour, Crime and Policing Act 2014;
- xii. To consider whether to make, extend, vary or discharge PSPOs proposing to restrict public right of access to highways (including alley ways) in accordance with Part 4 Chapter 2 of the Anti-social behaviour, Crime and Policing Act 2014 and under s.118b of the Highway Act 1980 for the stopping up of highways..
- xiii. In accordance with the Council's agreed Cold Calling Control Zone Policy, (as agreed by Cabinet on 27 November 2008), to consider requests to establish Cold Calling Control Zones.

(The above circumstances (i. to ix) in which functions may be delegated to the Licensing & PSPO Sub Committee are set out in the Licensing Act 2003 and drafted in RBWM's Licensing Policy Statement and within Annex A of RBWM's Statement of Principles Gambling Act 2005. (x) is pursuant to the Local Government (Miscellaneous Provisions) Act 1982, as amended).

## **B7.2 Membership**

Any 3 Members of the full Licensing Panel. The Members will be called for a sub-committee meeting on a rota basis from amongst those appointed by the Council, with political balance being maintained wherever possible.

## **B7.3 Quorum**

3 Members



**B7.4 Frequency**

As required

**B8 Rights of Way and Highway Licensing Panel****B8.1 Purpose:**

- (a) In accordance with Council policies to exercise the Council's functions relating to the following paragraphs of Section B of Schedule 1 of *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*:
  - i. 37 (registration of common land or town or village greens)
  - ii. 38 (variations of rights of common)
  - iii. 72 (function relating to registration of common land and town or village greens)
- (b) To consider any public objections to the making of any Statutory Order and determining those Orders in relation to the above functions.
- (c) In accordance with Council policies to exercise the Council's functions relating to the following paragraphs of Part I of Section I of Schedule 1 of *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*:
  - i. 1, 2, 4, 8, 20, 31, 32 (create, divert (permanent or temporary) or stop up a footpath, bridleway or restricted byway)
  - ii. 5 (determination of application for public path extinguishment order)
  - iii. 6, 10 (power to make rail crossing extinguishment or diversion order)
  - iv. 7, 11 (power to make special extinguishment or diversion order)
  - v. 9 (power to make a public path diversion order)
  - vi. 13 (power to make an SSSI diversion order)
  - vii. 23, 30 (power to extinguish certain public rights of way)

All other functions in Part I of Schedule 1 are delegated to the Director or their authorised delegated officer.

- (d) To receive recommendations from the Local Access Forum and to publish the Annual Report under regulation 13 of The Local Access Forums (England) Regulations 2007
- (e) In accordance with Council Policy, the Approved Code of Practice and available budgets to exercise the Council's functions relating to the functions set out in Part 2.
- (f) To consider any public objections to the making of any Statutory Order and determining those Orders in relation to the above functions.

**B8.2 Membership**

8 Members - N.B: A Cabinet Member may be a Member of the Rights of Way and Highway Licensing Panel

**B8.3 Quorum**

2 Members

## **B8.4 Frequency**

As required.

## **B9 Statutory Officer Panel**

### **B9.1 Purpose**

This Panel is established in accordance with Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

The Panel shall produce a report to full Council making recommendations on whether dismissal is appropriate disciplinary action for the Council's Head of Paid Service, Chief Finance Officer or Monitoring Officer. Where dismissal is not recommended, the Panel will recommend alternative appropriate sanctions in accordance with Part 8B.

### **B9.2 Membership**

The Panel shall consist of seven members:

- a) 2 Independent Persons (appointed under section 28(7) of the Localism Act 2011)
- b) 5 Members of the Council.

Where the Council's Independent Persons are not available then the Independent Person shall be such a person from another local authority that the Council considers appropriate.

### **B9.3 Quorum**

Not applicable

### **B9.4 Frequency**

As required but at least 20 working days prior to the relevant Council meeting.

### **B9.5 Type**

Advisory committee of full Council.

**B10** *deleted 4/5/21*

## **B11 Audit and Governance Committee**

### **B11.1 Purpose**

- a) To consider and approve the Head of Audit and Investigation's Internal Audit strategy and plan, internal audit annual report and opinion, a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's Corporate Governance arrangements. To consider and approve the approach for the effectiveness of the Internal Audit system, note the outcome of the review and agree the conclusion.
- b) To receive a quarterly report on the outcome of all audit reviews in line with the annual audit plan.
- c) To consider and approve the council's anti-fraud and corruption policies and review those on an annual basis.
- d) To receive half-yearly reports on anti-fraud and corruption activities.
- e) To consider the External Auditor's annual letter, relevant reports and reports to those charged with governance including issues arising from the audited accounts.
- f) To consider specific reports as agreed with external audit and to comment on the scope and depth of external audit work and to ensure that it delivers value for money.
- g) To approve arrangements for the appointment of the Council's external auditor.
- h) To review any relevant issue referred to the Committee by the Chief Executive, a Director or any Overview and Scrutiny Panel.
- i) To receive an annual report on and monitor the effective development and operation of risk management and corporate governance in the Council.
- j) To oversee the production of the Council's Annual Governance Statement and to recommend its adoption.
- k) To review and approve the annual statement of accounts, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- l) To consider on an at least an annual basis, all relevant policies relating to capital, investment and treasury management and to recommend to full Council for approval.
- m) To consider on at least a half-yearly basis, a review of performance in relation to treasury management activities.

### **B11.2 Membership**

5 Members of the Council.

No Member of Cabinet can be a Member of the Committee

**B11.3 Quorum**

2 Members

**B11.4 Frequency**

4 times per annum

**B11.5 Type**

Committee of Council

## C) JOINT ARRANGEMENTS

### C1 East Berkshire Joint Health Overview and Scrutiny Committee

#### C1.1 Purpose

These terms of reference together with the health scrutiny code of practice for East Berkshire provide a framework for carrying out joint health scrutiny work in East Berkshire under powers to scrutinise the NHS contained in the Health and Social Care Act 2001.

The East Berkshire Joint Health OSC has been formed by Bracknell Forest Council, Slough Borough Council and the Royal Borough of Windsor and Maidenhead;

- a) To look at strategic, regional, sub-regional or locality related health issues or look at a specific review as determined by the joint health overview and scrutiny committee (working as a *discretionary* committee).
- b) To form a *statutory* Joint Health Scrutiny Committee i.e. as required under law where the local authorities whose residents are affected by a particular course of action by a NHS body, consider the proposals to be “substantial” and wish to review the NHS decision/action or where the NHS body requires it.

Officer support i.e. the administration of agendas and minutes will follow annually with the rotation of the Chairman. Please refer to the joint health scrutiny protocol for details of the administration of specific reviews and the balance of administration between health trusts and local authorities.

Health scrutiny reviews undertaken on specific topics over a specific length of time, may be delegated to review groups of the joint committee with membership of between 3 and 6 Councillors, and with at least 1 member from each authority. This may be waived if an authority does not wish to take part, as the review will not affect their area, and if the involvement of the two remaining authorities is agreed.

Each separate review must be accompanied by a pro forma, covering the following items; description of the subject, identification of the health bodies involved/leading the issue, review group membership, issues to be addressed, officer support and the evidence gathering process proposed.

At the end of each review, a report must be produced and signed off by the Joint committee and considered by each individual participating authority.

The joint committee will also receive and consider responses by NHS bodies to its reports and reviews as empowered under the Act.

#### C1.2 Membership

The Committee will comprise of nine Councillors; three members elected annually from each of the individual three local authorities in East Berkshire. The three authorities have agreed

to waive the requirement for the committee as a whole to have proportional political representation. However, each local authority may decide whether to maintain political proportionality for its seats on the committee or not.

Appointments to the committee will be for a term of office one year from the date of each authority's annual council meeting. Substitutions may be made by each authority for their own representatives if they so wish. Substitutes may attend meetings of the joint committee as non-voting observers in order to familiarise themselves with the issues under review.

The Chairmanship of the joint committee will be rotated annually between the three East Berkshire authorities. The Joint Committee will appoint two vice-chairmen from the other participating authorities.

The Joint Committee may ask individuals to assist it on a review by review basis. Independent professionals or those with specialist knowledge may be requested to give their expert advice to the joint committee during a review, without being co-opted.

### **C1.3 Quorum**

The quorum for the main joint committee meetings shall be 6, provided that each authority is represented. The quorum for review meetings shall be 3, provided that each authority is represented or that joint agreement is reached for one or two authorities to lead/act for the joint committee.

### **C1.4 Frequency**

Once established the Joint Committee will meet three times per year and rotate the venue for the meeting with the first and last meeting being held in the premises of the authority from which the Chairman is appointed for that year. Special meetings may be called in addition to the meetings held three times per year if the need arises. The joint committee will meet in public and be advertised as such in each authority area in accordance with the local government acts.

The schedule of Joint Committee meetings may include flexibility if required, for example; to give a break in the timetable to allow individual authorities to evaluate responses to the Joint Committee's report and return with comments.

## **C2 Joint East Berkshire Health Overview and Scrutiny Committee with Buckinghamshire County Council**

### **C2.1 Purpose**

This Committee is established in accordance with the Directions issued by the Secretary of State for Health on 17th July 2003 following the initiation of a joint consultation under regulation 4 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 by the Berkshire East Primary Care Trust (BEPCT) and the Berkshire Healthcare Foundation Trust (BHT) with the health overview and scrutiny committees/Panels of Bracknell Forest Council, Slough Borough Council, Windsor and Maidenhead Borough Council and Buckinghamshire County Council ("the constituent

authorities") on proposals it has under consideration for a substantial development of the health service or a substantial variation in the provision of such service covering the areas of the constituent authorities.

The role of the Joint Committee shall be to consider the proposals upon which the BEPCT and BHT have consulted. In performing this role, the Joint Committee shall exercise the following functions:

- i) to consider and report on the proposal consulted on to the BEPCT and BHT under regulation 4(4) of the Regulations;
- ii) to require the BEPCT and BHT to provide information about the proposal;
- iii) to require officers of the NHS to attend before it to answer such questions as appear to it to be necessary for the discharge of its functions in connection with the consultation;
- iv) to co-opt additional members as it considers appropriate and be empowered to decide who to appoint to fill a co-opted place.
- v) to invite any other local authority members to meetings where their areas may be affected;
- vi) to invite such experts to meetings as the Joint Committee sees fit to advise them;
- vi) such other functions ancillary to those listed in i) to v) above as the Joint Committee considers necessary and appropriate in order fully to perform its role.

The Chairman will be the Chairman of the Joint East Berkshire Health Overview and Scrutiny Committee, with officer support from the same local authority until the role passes to another local authority at the end of the municipal year in line with the terms of reference of the Joint East Berkshire Health Overview and Scrutiny Committee.

## **C2.2 Membership**

The Joint Committee shall be made up of 12 Health Overview and Scrutiny Committee members comprising 3 Members each from Bracknell Forest Council, Slough Borough Council and Windsor and Maidenhead Borough Council and 3 Members from Buckinghamshire County Council/or South Buckinghamshire District Council. These Members will be appointed by the local authorities concerned. Each local authority will appoint substitute members if they so wish. The four authorities are asked to waive the requirement for the committee as a whole to have proportional political representation.

Appointments to the committee will be for a term of office one year from the date of each authority's annual council meeting. Substitutes may attend meetings of the joint committee as non-voting observers in order to familiarise themselves with the issues under review.

## **C2.3 Quorum**

The quorum for the main joint committee meetings shall be 6, provided that each authority is represented or that joint agreement is reached for one or two authorities to lead/act for the joint committee.

## **C2.4 Frequency**

The Joint Committee will meet in public and be advertised as such in each authority area in accordance with the local government acts.

### **C3 Health and Wellbeing Board**

NB: The Health and Wellbeing Board became a formal committee of Council in April 2013 as a part of the Health and Social Care Act 2012.

The Board is not subject to political balance under regulation 7 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

#### **C3.1 Purpose**

- To implement the national and local requirements on Health and Wellbeing Boards to improve the life outcomes, health and wellbeing of residents in the Borough.
- To act as a high level strategic partnership to agree the priorities that will improve the health and wellbeing of the residents of the Royal Borough of Windsor and Maidenhead.
- To deliver the statutory functions placed on Health and Wellbeing Boards through the Health and Social Care Act 2012 and other statutory or local priorities.

#### **Background**

Social policy changes from Central Government have changed the requirements for health and social care nationally in order to bring more local democracy into local services. The Health and Social Care Act 2012 brought in the most wide-ranging reforms of the NHS since it was founded in 1948 including significant changes to local governance structures for health and wellbeing, to improve health outcomes for the local population.

Each locality now has a statutory requirement to create a Health and Wellbeing Board, which has specific functions for the associated area. The Board is hosted by the local authority and the Health and Social Care Act, and accompanying regulations, have detailed the requirements and functions of a Health and Wellbeing Board.

#### **Requirements of Health and Wellbeing Boards**

1. Assess the needs of the local population and lead the statutory Joint Strategic Needs Assessment (JSNA).
2. Prepare a Joint Health and Wellbeing Strategy based on the needs identified in the JSNA.
3. Oversee the delivery of the Better Care Fund.
4. Promote integration and partnership, including joined up commissioning plans across the NHS, social care and public health.
5. Support joint commissioning and pooled budgets where all parties agree it makes sense.
6. Offer strategic and organisational leadership to meet local priorities.

#### **Accountability**

The Board is locally accountable to the community it services and elected members through the Royal Borough's Cabinet.

#### **Reporting Structures**



Any deviation from these terms of reference will be agreed by the statutory partners of the Board, specifically the Royal Borough and the NHS Frimley ICB governing bodies.

### **Review of the Health and Wellbeing Board**

The terms of reference and membership will be reviewed annually.

#### **C3.2 Membership**

- Cabinet Member(s) with responsibility for Adult and Children's Services.
- Clinical Lead RBWM NHS Frimley ICB.
- Executive Director of People Services.
- Head of Housing, Environmental Health and Trading Standards.
- Director of Public Health for East Berkshire.
- Deputy Director of Public Health for East Berkshire.
- Representative from NHS Frimley ICB.
- Representative from East Berkshire Healthwatch.
- Two Members of the Council, nominated by the Leader.
- Chairman of the People Overview and Scrutiny Panel.

The Chairman will be a Member of the Council nominated by the Leader. The Vice Chairman will be the Clinical Lead RBWM NHS Frimley ICB.

Members of the Council appointed to the Board should represent a geographical spread of the borough, however this is not a requirement.

Named substitutes will attend meetings of the Board in place of core members as required. Other partners and stakeholders may be co-opted into temporary or permanent membership to help address the identified strategic priorities as agreed by the Board.

#### **C3.3 Frequency of Meetings**

Four meetings per year. All meetings will be public unless there are confidential (Part II) items as applicable by the Local Government Act 1972.

#### **C3.4 Quorum**

Minimum representation of four members for a meeting to take place with at least two members each from the Council and the NHS.

Relevant outside bodies shall communicate and/or provide the Board with relevant updates and briefings as deemed necessary.

The Chairman will, in consultation with the Board members, identify material and items suitable for recommending as a press release to be issued on behalf of the Council.

## **C4 Achieving for Children Joint Committee**

### **C4.1 Purpose**

The London Borough of Richmond upon Thames, the Royal Borough of Kingston upon Thames and the Royal Borough of Windsor and Maidenhead have established the Joint Committee pursuant to powers under the Local Government Acts 1972 and 2000. The Joint Committee shall be known as “The Achieving for Children Joint Committee”.

The Joint Committee will discharge functions on behalf of all three councils with regards dispute resolution and will be convened as and when required.

The Joint Committee is not a self-standing legal entity but part of its constituent authorities. Any legal commitment entered into pursuant of a decision of the Joint Committee must be made by either or all of the authorities which will be indemnified appropriately.

These Terms of Reference govern the conduct of meetings of the Joint Committee and except, where expressly stated otherwise, take precedence over each Borough’s relevant Constitutional provisions. The Joint Committee may vary the Terms of Reference rules as it considers appropriate.

#### **C4.2 Definitions**

Any reference to Access to Information legislation shall mean Part VA of the Local Government Act 1972 (as amended) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as amended).”

#### **C4.3 Functions**

The Joint Committee will discharge functions on behalf of all three Councils with regards solely dispute resolution in relation to matters concerning this Agreement.

#### **C4.4 Membership**

There will be nine elected members of the Joint Committee, three appointed from each Borough. Appointments will be made in line with each Authority’s governance arrangements. The appointments should include the Leader of each Council and a Member whose portfolio areas include responsibility for Children’s Services.

Appointments will be made for a maximum period not extending beyond each Member’s remaining term of office as a Councillor.

As nominees of their respective Councils, members of the Joint Committee are governed by the provisions of their own Council’s Codes and Protocols including the Code of Conduct for Members and the rules on Disclosable Pecuniary Interests.

Each authority will utilise existing mechanisms for substitution as laid down in their own Standing Orders.

#### **C4.5 Chair**

Each Council will appoint one Member as a Co-Chair each of whom, in rotation, preside over meetings of the Joint Committee.

Meeting venues shall rotate between the Council's main offices with the Co-Chair from the authority which is hosting the meeting presiding over the meeting. Where the host CoChair is not present, the Joint Committee shall appoint an alternate Co-Chair from amongst its number to preside over the meeting.

#### **C4.6 Sub-Committees**

The Joint Committee may establish sub-committees to undertake elements of its work if required and subject to the approval of each of the constituent authorities.

#### **C4.7 Delegation to Officers**

The Joint Committee may delegate specific functions to officers of any of the Boroughs. Any such delegation may be subject to the requirement for the officer to consult with or obtain the prior agreement of an officer (or officers) of the other boroughs.

It may also be subject to the requirement for the officer with delegated authority to consult with the Co-Chairs of the Joint Committee before exercising their delegated authority.

#### **C4.8 Administration**

Organisational and clerking support for the Joint Committee will be provided for by the host authority.

#### **C4.9 Budget**

The Joint Committee will not have an allocated budget.

#### **C4.10 Agenda Management**

All prospective items of business for the Joint Committee shall be agreed by the Chief Executives of all three Councils or their representatives, following consultation with the AfC Management Team.

Where a decision of the Joint Committee does not apply to all three Boroughs, the delegation of functions to the Joint Committee is limited to the Borough to which the decision applies.

To comply with Access to Information legislation in the publication of agendas including Forward Plan requirements, those functions delegated to the Joint Committee for determination and defined as key decisions on behalf of Richmond and Windsor and Maidenhead must be included in the Forward Plan. Although not legally required for Kingston under the Committee System Governance Arrangements, a Forward Plan has been maintained and notice will be given therein.

#### **C4.11 Meetings**

The Joint Committee will meet as and when required for the purposes of fulfilling its function with regards dispute resolution. The quorum for a meeting of the Joint Committee shall be at least two members from each Borough.

Access to meetings and papers of the Joint Committee by the Press and Public is subject to Part VA of the Local Government Act 1972 (as amended) and Part 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012.

#### **C4.12 Notice of Meetings**

The host authority clerk of the Joint Committee will give notice to the public of the time and place of any meeting in accordance with the Access to Information requirements.

At least five clear working days in advance of a meeting the host authority clerk of the Joint Committee will publish the agenda via the website of the host authority and distribute a copy of the papers to all Members of the Committee. Five clear days does not include weekends or national holidays and excludes both the day of the meeting and the day on which the meeting is called.

#### **C4.13 Public Participation**

Unless considering information classified as “exempt” or “confidential” under Access to Information Legislation, all meetings of the Joint Committee shall be held in public.

An agenda item to last no longer than 15 minutes will be included on each agenda to hear deputations from the public in relation to items on the agenda that are not exempt under paragraph 13.1. Notification must be given to the host authority in advance of the meeting indicating the matter to be raised, by 12 noon on the last working day before the meeting. Each deputation will last no longer than 5 minutes and only 3 deputations will be permitted (i.e. the first three to register with the host authority in advance of the deadline).

Where the number of public representations exceed the time allowed, a written response will be provided or the matter will be deferred to the next meeting of the Joint Committee.

#### **C4.14 Member Participation**

Any Member of each Council who is not a member of the Joint Committee may ask a question or address the Committee with the consent of the Co-Chair of the meeting at which they wish to speak.

#### **C4.15 Business to be Transacted**

Standing items for each meeting of the Joint Committee will include the following:

- Public participation
- Apologies for absence
- Declarations of Interest
- Minutes of the Last Meeting
- Substantive items for consideration

The Co-Chair may vary the order of business and take urgent items as specified in the Access to Information Requirements at his / her discretion. An item of business may not be considered at a meeting unless:

- A copy of the agenda included the item (or a copy of the item) is open to inspection by the public for at least five clear days before the meeting; or
- Where the meeting is convened at shorter notice from the time the meeting is convened; or
- By reason of special circumstances which shall be specified in the minutes the Co-Chair of the meeting (following consultation with the other Co-Chair) is of the opinion that the item should be considered at the meeting as a matter of urgency

“Special Circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made at a later meeting allowing the proper time for inspection of documents by the public as well as why the item or report could not have been available for inspection for five clear days before the meeting.

#### **C4.16 Cancellation of Meetings**

If in the event a dispute is resolved prior to the meeting of the Joint Committee called to resolve the issue, after consultation with all three Co-chairs the meeting will be cancelled

#### **C4.17 Rules of Debate**

The rules of debate in operation in the authority which is hosting the meeting shall apply.

#### **C4.18 Request for Determination of Business**

Any member of the Joint Committee may request at any time that the Joint Committee move to vote upon the current item of consideration.

In the event that a unanimous decision cannot be reached then Part 2 and/or Part 3 of the Dispute Resolution Procedure (Schedule 7) shall apply.

#### **C4.19 Urgency Procedure**

Where all Co-Chairs of the Joint Committee are of a view that an urgent decision is required in respect of any matter within the Joint Committee’s Terms of Reference and it cannot wait until an Ordinary Meeting of the Joint Committee has been called and notice been given under Paragraph 12 of this Schedule (Notice of Meetings), then arrangements will be made to call an urgent meeting of the Joint Committee.

#### **C4.20 Voting**

With regards the Joint Committee’s function in the resolution of disputes under the conflict resolution mechanism, each elected member will be entitled to one vote.

Where there is an equality of votes and the matter cannot be resolved then Part 2 of the Dispute Resolution will be engaged.

#### **C4.21 Minutes**

At the next suitable meeting of the Joint Committee, the Co-Chair presiding will move a motion that the minutes of the previous meeting be agreed as a correct record. The meeting may only consider the accuracy of the minutes.

Once agreed, the Co-Chair presiding at the meeting will sign the minutes.

#### **C4.22 Exclusion of Public and Press**

Members of the public and press may only be excluded from a meeting of the Joint Committee either in accordance with the Access to Information requirements or in the event of disturbance.

A motion may be moved at any time for the exclusion of the public from the whole or any part of the proceedings. The motion shall specify by reference to Section 100(A) Local Government Act 1972 the reason for the exclusion in relation to each item of business for which it is proposed that the public be excluded. The public must be excluded from meetings whenever it is likely, in view of the nature of business to be transacted, or the nature of the proceedings that confidential information would be disclosed.

If there is a general disturbance making orderly business impossible, the Co-Chair may adjourn the meeting for as long as he/she thinks is necessary. To comply with the Executive Arrangements (Access to Information) Regulations 2012 on Richmond's and Windsor and Maidenhead's behalf, all background papers will be published as part of the Joint Committee agenda and be made available to the public via the website of each authority.

#### **C4.23 Overview and Scrutiny**

With regards RBKT and LBRT, decisions of the Joint Committee will not be subject to scrutiny and call-in and this paragraph 24 does not apply.

With regards RBWM, decisions of the Joint Committee which are defined as executive decisions by RBWM will be subject to scrutiny and Call-in. Call-in provisions will only apply in the event that the decisions of the Joint Committee are contrary to the original decision of the RBWM Cabinet.

For any Joint Committee meeting including executive decisions as defined by RBWM, the minutes will be published within two working days. On the publication of the minutes of a meeting of the Joint Committee, 5 clear days must elapse (not including the date of publication and weekend days and bank holidays) before decisions can be implemented on the part of RBWM.

Decisions of the Joint Committee which are defined as executive decisions will be subject to the "call in" arrangements operating in RBWM as set out in its constitution.

Where a decision is called in, arrangements will be made at the earliest opportunity within RBWM for it to be heard.

## D) OTHER PANELS, FORUMS AND COMMITTEES

*These Panels, Forums and Committees are conducted or sponsored by the Council either as a statutory requirement or through choice for the better economic, social or environmental reasons. They are not committees discharging Council function (i.e. making decisions) pursuant to s101 and 102 of the Local Government Act 1972.*

### D1 Area Forums

#### D1.1 Purpose

The Royal Borough has established two Area Forums:

- Windsor Town Forum covering issues concerning the following wards:
  - Clewer & Dedworth East
  - Clewer & Dedworth West
  - Clewer East
  - Eton & Castle
  - Old Windsor
  
- Maidenhead Town Forum, covering issues concerning the following wards:
  - Belmont
  - Boyn Hill
  - Furze Platt
  - Riverside
  - Oldfield
  - Pinkneys Green
  - St Mary's

These Area Forums will provide a means whereby the Council can consult with local communities and, potentially, devolve some decision-making.

The Area Forums are given the power to spend money as delegated by Cabinet resolution; to direct neighbourhood budget expenditure in unparished areas and to send reports with recommendations to Cabinet. The Area Forums will report any such expenditure to Cabinet at least annually. In order to facilitate these roles, Area Forums will be able to work with the local residents, businesses, organisations, including public and private sector, and with other representative organisations such as Parish Councils, Chambers of Commerce, Residents' Associations, etc., any of whom may be invited to attend and contribute to the discussions of the Area Forum. The Area Forums will be politically balanced wherever possible and the Members should represent a Ward within the areas of responsibility set out above.

The Area Forums may consider areas such as:

- Local Policing
- Local planning consultation
- Local youth services
- Local transport issues, including car parking

- Repair and maintenance of local highways
- Local library and information services
- Local leisure, heritage and arts
- Local environmental initiatives

## **D1.2 Membership**

Windsor Town Forum - 11 Members; Maidenhead Town Forum - 11 Members

## **D1.3 Quorum:**

3 Members

## **D1.4 Frequency:**

Six times per annum.

## **D2 Appeals Panel**

### **D2.1 Purpose:**

To act as an Appeals Panel to hear and determine appeals in respect of the following activities and services of the Council:

- (i) *Social Services and Housing Homeless Appeals* - to consider and determine appeals made against decisions made by the officers under delegated powers in respect of homelessness and the interpretation of rules for admission to the Housing Waiting List.
- (ii) *School Transport Appeals* - to consider and determine appeals against decisions made by officers under delegated powers relating to applications for home to school transport and discretionary awards. To determine applications for major and minor awards which are exceptional to the guidelines.
- (iii) *Discretionary Housing Payments* - to hear representatives and to consider appeals against Officer determinations in respect of discretionary housing payments.
- iv) To consider appeals in relation to the refusal to grant, suspension or revocation of Private Hire or Hackney Carriage Driver or Vehicle Licences.
- v) *Registration and Awards Appeals*: To consider any other appeals under statutory regulations.

### **D2.2 Membership:**

5 Members maintaining political balance wherever possible.

### **D2.3 Quorum:**

3 Members



## **D2.4 Frequency:**

As required

## **D3 Aviation Forum**

### **D3.1 Purpose:**

#### Mission Statement

The Aviation Forum is committed to providing community leadership to local communities within the Royal Borough by representing local views at national and regional government levels on the economic, social and environmental impacts and concerns arising from activities associated with aviation, particularly those related to Heathrow Airport.

The Aviation Forum shall provide a proactive forum on behalf of the Council of the Royal Borough of Windsor and Maidenhead to discuss, advise, coordinate and provide community leadership on strategic aviation policies and major aviation issues, with particular emphasis on activities related to Heathrow Airport.

The Forum will report to the relevant Overview and Scrutiny Panel on any issues likely to impact upon Council Policy or interest, particularly those matters that may result in a change of Policy that require a Cabinet decision. It will be for the Overview and Scrutiny Panel to make any recommendation to Cabinet.

The Forum will contribute to the work of the Council in responding to Government and other aviation-related bodies and agencies on all aviation issues that have a strategic planning, transportation, land use, sustainability or environmental health dimension.

The Forum will provide assistance and advice to the Council on the development and implementation of relevant policies and guidance including responses to proposals arising out of the development of the national aviation strategy.

The Forum shall not act in a way that conflicts with or undermines the Royal Borough's policies as a whole or damages the interests of its local communities.

The Forum will develop its role and pursue its objectives in accordance with an annual work programme, which will be kept under review so as to ensure consistency with Council policies, strategies and community aspirations.

The annual work programme of the Forum will be submitted to an annual meeting of the Communities Overview and Scrutiny Panel for the purposes of agreement and performance reporting and monitoring; or at such frequencies or for the purposes of reporting on specific issues as requested or directed by the Panel.

The Chairman may request representatives on the Forum to form Technical Working groups for the purposes of researching and investigating specific aviation-related matters with a view to providing advice to the Forum and the Council.

The Forum will maintain close links with other aviation-interest groups such as:

- 2M Group
- Strategic Aviation Special Interest Group (SASIG)
- Local Authority Aircraft Noise Council (LAANC)
- Heathrow Airport Consultative Committee (HACC)
- Air Noise Working Group (Officer technical group)

Agenda items for discussion at Forum meetings will be agreed in advance with the Chairman. In any event Members and Officers formally representing the Borough on relevant outside bodies shall communicate and/or provide the Forum with relevant updates and briefings as deemed necessary.

The Chairman will, in consultation with the Forum Members, identify material and items suitable for recommending as a press release to be issued on behalf of the Council.

### **D3.2 Membership –**

5 Members

### **D3.3 Quorum:**

2 Members

### **D3.4 Frequency:**

Quarterly

## **D4 Corporate Parenting Forum**

### **D4.1 Purpose**

The Corporate Parenting Forum receives reports from professionals delivering services to children in care and care leavers to ensure that they receive the corporate parenting they need to reach their full potential. The Corporate Parenting Forum acts as the forum through which elected Members exercise their corporate parenting responsibilities.

The Forum:

- Acts as the Forum through which elected Members exercise their corporate parenting role and responsibilities.
- Ensures that the Council Pledge to children and care leavers is meaningful and delivered in full.
- Examine ways in which the Council as a whole and partner agencies can improve the life chances of all children in care and care leavers and become a more effective corporate parent.
- Reflects the commitment of the Council, to reduce the need for children and young people to come into care and be an excellent corporate parent for those in care.

- Refers matters to the Council's relevant Overview and Scrutiny Panel which warrant further investigation.
- Advises the Cabinet of any actions which need to be taken.
- Ensures there are good joint working arrangements between council departments and partner agencies, maintaining an overview of these services and holding operational services to account.
- Provides an opportunity for representatives of the Children in Care Council to report their views and work to the Forum.
- Provides an opportunity for elected Members to hear the views, wishes and feelings of the children and young people in the care of the Council, so that they are able to understand their experiences of being in care.
- Maintains a strategic overview of new developments, initiatives, plans policies and strategies that impact on services for children in care and care leavers, including child sexual exploitation.
- Monitors the performance of the Council by receiving regular progress reports on all performance data relating to Children in Care Services.
- Receives regular reports on the needs of care leavers including employment, further education, training and housing.
- Receive Annual reports from the Adoption and Fostering Services, and Independent Reviewing Officers.
- Agrees an annual forward plan setting out its key priorities and areas for action. This will be included in the annual report which will be submitted to Council.
- Acknowledges and celebrate the achievements of children and young people in care in areas of education, drama, sport and employment, and participate in annual celebration events.
- Takes account of direct experiences of parents of children in care and to ensure they influence the improvement of services and policy development

This means that:

The annual RBWM Outcome Improvement Plan for children in care and care leavers sets out the actions the Council and its partners will take to fulfil its role as an excellent corporate parent. This includes:

- Improving corporate parenting services by, for example, supporting the development of the Children in Care Council, ensuring young people participate in the Corporate Parenting Forum and monitoring the implementation of the RBWM Pledge to children in care and care leavers
- Ensuring quality family and parenting support services are in place to prevent children coming into care where possible
- Improving the range and quality of local care placements
- Delivering a first class education through RBWM's Virtual School for Children in Care
- Promoting the physical and mental health of the children in our care
- Ensuring that our care leavers have the support that they need to make a successful transition to adulthood

The Corporate Parenting Forum includes Children in Care Council representatives who are enabled to participate in the Forum alongside officers and Members. The Participation Project Worker ensures that the views of RBWM children in care and care leavers are heard and responded to and facilitates the Children in Care Council. The Chairman of the Corporate Parenting Forum, the Cabinet Member and the Director of Children's Services meet with Children in Care Council representatives on an ongoing basis.

#### **D4.2 Membership**

5 Councillors and 1 member of Local Safeguarding Children Board along with relevant officers, including the Director of Children's Services, Deputy Director Early Help and Safeguarding, Service Leaders and the Head Teacher of the Virtual School.

#### **D4.3 Quorum:**

Two Members

#### **D4.4 Frequency:**

Six times per year.

### **D5 Grants Panel**

#### **D5.1 Purpose:**

To consider applications for Grant funding to voluntary organisations, with a view to formulating recommendations to Cabinet.

Under delegated authority to consider applications received outside of the Annual Grants cycle and agree grants awards at an interim Grants Panel meetings or to be delegated to the Transformation and Community Service Lead in consultation with the Chairman of the Grants Panel and the relevant Cabinet Member to reflect the specific service area to which the grant relates.

Under delegated authority, to consider applications for Social Enterprise Grants

#### **D5.2 Membership:**

5 Members of the Council

#### **D5.3 Quorum:**

2 Members

#### **D5.4 Frequency**

The Panel will meet as required to consider annual Kidwells Trust grants and annual capital grants. Interim meetings as required.

## D6 Independent Remuneration Panel

### D6.1 Purpose:

This Panel is established in accordance with Part 4 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

The Panel shall produce a report making recommendations:

- a) as to the responsibilities or duties in respect of which the following should be available:
  - (i) special responsibility allowance;
  - (ii) travelling and subsistence allowance; and
  - (iii) co-optee's allowance;
- b) as to the amount of such allowances and as to the amount of basic allowance;
- c) as to whether dependents' carers' allowance should be payable to members of an authority, and as to the amount of such as allowance;
- d) as to whether, in the event that the scheme is amended at any time so as to effect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated in accordance with regulation 10(6) of the Local Authorities (Members' Allowances) (England) Regulations 2003;
- e) as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed;
- f) as to which members of an authority are to be entitled to pensions in accordance with a scheme made under section 7 of the Superannuation Act 1972; and
- g) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable in accordance with a scheme made under section 7 of the Superannuation Act 1972.

Once the Council receives a copy of a report made to it by an independent remuneration panel, it shall, as soon as reasonably practical:

- a) ensure that copies of that report are available for inspection by members of the public at the principal office of the authority, at all reasonable hours; and
- b) publish in one or more newspapers circulating in its area, a notice which:
  - (i) states that it has received recommendations from an independent remuneration panel in respect of its scheme;

- (ii) describes the main features of that Panel's recommendations and specifies the recommended amounts of each allowance mentioned in the report in respect of that authority;
- (iii) states that copies of the panel's report are available at the principal office of the authority for inspection by members of the public at such times as may be specified by the authority in the notice; and
- (iv) specifies the address of the principal office of the authority at which such copies are made available.

The Council shall supply a copy of a report made by an independent remuneration panel to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

Before the Council makes or amends its scheme for the payment of allowances to Members, it must have regard to the remuneration panel's recommendations to it on the scheme.

## **D6.2 Membership**

The Panel shall consist of at least three members, none of whom:

- a) is also a Member of the Council in respect of which recommendations are made by the Panel, or a member of a committee or sub-committee of the Council; or
- b) is disqualified from being or becoming a Member of the Council.

## **D6.3 Quorum:**

2 Members

## **D6.4 Frequency:**

As required

## **D7 School Improvement Forum**

### **D7.1 Purpose:**

#### **Objective**

To ensure that pupils faced with disadvantages achieve well across the Borough through collaborative approaches which seek to support those with barriers to learning.

To celebrate the success of our schools in providing high quality education across the borough and to ensure that all pupils achieve well.

#### **Terms of Reference**

- To shape the programme of collaborative work to support pupil premium children across the borough

- To monitor, review and evaluate:
  - The effectiveness of the projects to support pupils in receipt of additional funding as a result of low income.
  - The progress and learnings from the rollout of the Inclusion Charter Mark across the borough to establish a clear view of the range of inclusive education on offer across the borough
- To consider the annual results and recommend key borough-wide priorities for the next academic year.

## **D7.2 Membership**

Cabinet Member for Children's Services, Opposition Spokesperson for Children's Services and one other Member from the ruling group.

The three primary cluster chairs and the chair of the secondary heads association will be invited to attend the meeting along with the officers and school leaders working with the projects

## **D7.3 Quorum**

2 Members

## **D7.4 Frequency**

Frequency of meetings will be one per Academic term, timed to fit into the school cluster meeting timetable.

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# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **A – MEMBERS’ CODE OF CONDUCT**

## **Royal Borough of Windsor & Maidenhead Members' Code of Conduct**

### **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
  - in non-verbal communication
  - in electronic and social media communication, posts, statements and comments

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.****1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

**2. Bullying, harassment and discrimination****As a councillor:****2.1 I do not bully any person****2.2 I do not harass any person.****2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

You must undertake training arranged by the Council on equality and diversity within two calendar months of your election and annually thereafter.

### **3. Impartiality of officers of the council**

#### **As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

#### **As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i. I have received the consent of a person authorised to give it;
  - ii. I am required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    1. reasonable and in the public interest; and
    2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    3. I have consulted the Monitoring Officer prior to its release.

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should

work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a councillor:**

#### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a councillor:**

#### **7.1 I do not misuse council resources**

#### **7.2 I will, when using the resources of the local or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

**As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that

might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any multiple or recurring gift or hospitality (with an individual value of less than £25 but a combined total of £50 over a three-month period) received from an individual or group, within 28 days of its receipt.**
- 10.4 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.



## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

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

## Appendix B

### Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable pecuniary interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and

must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non- Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
- your own financial interest or well-being;
  - a financial interest or well-being of a friend, relative, close associate; or
  - a financial interest or well-being of a body included under Other Registerable Interests as set out in Table 2

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
- to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and which has not been fully discharged
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

<b>Subject</b>	<b>Description</b>
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) 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 if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registerable Interests**

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b ) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the

allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.



## Appendix D

### Arrangements for dealing with breaches of the Code of Conduct

Complaints in respect of this Code of Conduct are made to the Monitoring Officer.

#### 1. Receipt and Acknowledgment of the Complaint

The Monitoring Officer will acknowledge a Code of Conduct complaint within 5 working days. An initial response will then be sent within 10 working days after that, either seeking further clarification, or setting out how the council will consider the complaint. The onus is on the complainant(s) to ensure that all relevant information is given. The complainant(s) will be told that full details of their complaint will be given to the Councillor concerned (“the Subject Member”).

Anonymous complaints will not be considered unless accompanied by documentary or photographic evidence, evidencing an exceptionally serious or significant matter.

If the Subject Member is a Parish or Town Councillor, the clerk will be informed of the complaint on a confidential basis.

#### 2. Response of the Subject Member

The Subject Member will be informed of the complaint within 5 working days of the complaint being received and clarified. The Subject Member will be asked to supply written comments within 10 working days from the complaint being received or such longer time as determined by the Monitoring Officer. A Subject Member will be informed that he or she is entitled under the Localism Act 2011 to seek support from one of the Council’s Independent Persons

#### 3. Initial Assessment of the complaint by the Monitoring Officer

Once a response has been received from the Subject Matter, or when a reasonable time has passed and no responses has been received, the Monitoring Officer will carry out an initial assessment of the complaint. The purpose of the initial assessment by the Monitoring Officer is to determine whether the complaint should be accepted for further consideration or rejected. In determining whether a complaint should proceed the Monitoring Officer may apply the following criteria:

- Acting as a Member: Was the Subject Member acting as a Member at the time of the allegation?<sup>1</sup>
- Seriousness of the complaint – is the complaint trivial, vexatious, malicious, politically motivated, or ‘tit for tat’? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven? Where complaints are raised by Members alleging a lack of respect or courtesy by the Subject Member then the Monitoring Officer may reject the complaint - see guidance on ‘Respect - what a reasonable person would regard as disrespectful to others’ Appendix 3.

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<sup>1</sup> See guidance at Appendix 4

- Duplication – Is the complaint substantially similar to a previous allegation or is it subject of an existing investigation? If there is a current complaint about the same matter then a repeat allegation will be rejected unless the complainant is directly harmed by the allegation or they can provide new evidence.
- Length of time – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action
- Public Interest – In all cases, is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action which is satisfactory to the Monitoring Officer, taking into account the circumstances of the complaint?

The complainant(s) and the Subject Member will normally be informed by the Monitoring Officer of the initial assessment decision within 10 working days of it being made. Should it be determined by the Monitoring Officer, in consultation with an Independent Person where appropriate, that the complaint should not proceed, then the complaint shall be dismissed. There is no right of appeal for the complainant(s) under these rules.

#### **4. Decision of the Monitoring Officer**

Should it be determined, having regard to the criteria referred to in section 3 above, that the complaint be accepted for further consideration, the Monitoring Officer shall, subject to consultation with an Independent Person, have delegated authority to decide to take one of the following actions:

- If there is clear evidence that there has been no breach of the Code of Conduct, the Monitoring Officer will write a No Breach Decision Notice explaining the reason for the decision which will be given to the complainant(s) and the Subject Member. The Parish or Town Clerk, if appropriate, will be informed that there is no breach.
- Where there has been a clear breach of the Code of Conduct the Monitoring Officer will write a report with a recommendation for a decision for a breach of the Code of Conduct, giving reasons for that recommended decision, and then refer the matter to a Members Standards Sub-Committee for a formal decision. The Member Standards Sub-Committee will conduct a local hearing following the procedure in Appendix 6 of this Part, and make a decision in accordance with paragraph 2.2.
- Where there has possibly been a breach of the Code of Conduct, the Monitoring Officer will require a formal investigation and a written investigation report by an Investigating Officer. An indicative timescale for the process should be given to the complainant(s) and the Subject Member. At least a monthly update report will be provided to all parties in an ongoing investigation. The investigation report shall conclude whether or not there has been a breach of the Code of Conduct and give clear reasons for that conclusion.

## **5. Finding on Investigation**

### **5.1 No Breach of Code of Conduct**

Where an investigation finds no evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person and the Chairman of the Member Standards Panel, shall make a decision to take no further action. The Monitoring Officer will write a No Breach Decision Notice explaining the reason for the decision which will be given to the complainant(s) and the Subject Member. The Parish or Town Clerk, if appropriate, will be informed that there is no breach, but no further information will be supplied.

### **5.2 Breach of Code of Conduct**

Where there is evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person and the Chairman of the Member Standards Panel, shall refer the Investigating Officer's report to a Member Standards Sub-Committee. The Member Standards Sub-Committee will conduct a local hearing following the procedure Appendix 6 of this Part, and make a decision in accordance with paragraph 2.2.

The Member Standards Sub Committee will usually hear a complaint within one calendar month of the date that the Monitoring Officer has referred the matter to the Sub Committee. The Subject Member and complainant(s) will be informed of the decision.

## **6. Appeals, Transparency and Confidentiality**

### **6.1 Appeals**

There is no right of appeal under the Code of Conduct and the decision of the Monitoring Officer or the Member Standards Sub Committee will be final. However, Subject Members who have been found in breach of the Code of Conduct may make a statement about the complaint and the findings. This statement shall be published on the Council's website for the period stated in Transparency section below.

If the complainant(s) is unhappy with this decision, they may write to the Local Government and Social Care Ombudsman to complain if he or she believes that proper process has not been followed. The Ombudsman will not however have authority to change the decision itself. Note that the Ombudsman will not consider a complaint from a Councillor.

### **6.2 Transparency**

The decision of the Monitoring Officer or Member Standards Sub Committee will be sent to the Subject Member and the complainant(s). A decision that a Subject Member is in breach of the Code of Conduct will be published on the Council's website. The decision will be publicised for 12 months unless the Member Standards Sub-Committee consider an alternative time is appropriate.

Unless the Member Standards Sub-Committee determines otherwise, the decision notice, the Group Leader/ Chairman's statement and the Subject Member's statement only will be published on the website.

### **6.3 Confidentiality**

Subject to the requirements of Data Protection legislation, unless the Monitoring Officer or Member Standards Sub Committee decides otherwise or unless stated to the contrary in this Part, the complaint, all communications and correspondence, investigation reports, reports and decisions will remain confidential. Statements and investigations will be conducted with an expectation that such information will only be released to the parties involved under these arrangements.

The Members 'need to know' in relation to access to information shall only extend to the Subject Member, the complainant(s) (where such is a member) and members of the Member Standards Sub Committee.

Requests for information will be provided on the basis of the expectation of confidentiality by the parties and exemptions under the various statutory schemes. Where investigation reports have been prepared, only summary or the conclusions will be released.

## **Appendix E**

### **1 Procedure for Member Standards Sub Committee**

#### **1.1 Appointment, Composition and Terms of Reference of the Member Standards Sub Committee**

The Monitoring Officer is required to convene a Member Standards Sub Committee from the membership of the Member Standards Panel as necessary. The Member Standards Sub Committee will therefore not have a fixed membership.

The Member Standards Sub Committee shall comprise of two members of the Member Standards Panel, and one of the Council's Independent Persons as Chairman. The Chairman will not be the Independent Person who was consulted by the Monitoring Officer through the process, as they attend the hearing in that capacity. If the complaint relates to a Town or Parish Councillor then a co-opted Town or Parish Councillor may also be an additional member of the Member Standards Sub Committee, but will not have voting rights.

#### **1.2 Pre Hearing Process**

The date of the hearing will be arranged by the Monitoring Officer in consultation with the members of the Member Standards Sub Committee..

Once the date for the Member Standards Sub Committee has been arranged the Subject Member will be notified and asked if they:

- a) wish to attend the hearing;
- b) wish to be accompanied or represented at the hearing by any other person;
- c) wish to submit any written evidence or documentation to be considered by the Sub Committee. This must be sent no later than 3 working days prior to the hearing and will be passed to the complainant(s) and the Investigating Officer for any comment. Additional evidence or documentation not submitted by this deadline may not be accepted by the Sub Committee;
- d) wish to call relevant witnesses to give evidence at the hearing. The Chairman of the Member Standards Sub Committee will have the final decision on how many witnesses may reasonably be needed.

The Member Standards Sub Committee and the Subject Member, and the Independent Person who was consulted by the Monitoring Officer through the process will each receive a report from the Monitoring Officer which will include a copy of the Investigating Officer's final report, on a strictly confidential basis.

The Members Standards Sub Committee will be held in private and this will be confirmed at the hearing. The complainant(s) will not attend unless the Chairman of the Member Standards Sub Committee agrees, or the Subject Member requests that they attend for the purposes of answering questions on the evidence provided.

### 1.3 Procedure for the Member Standards Sub Committee

The procedure for the Member Standards Sub Committee will be as follows:

- a) The Chairman will confirm the names and status of those attending. If the Subject Member is not present at the start of the hearing, and they had indicated their intention to attend, the Chairman shall ask the Monitoring Officer whether the Subject Member has provided any reasons why he or she would not be present. From the response the Member Standards Sub Committee will decide whether to make a determination in the absence of the Subject Member or adjourn the hearing to another date.
- b) If an Investigating Officer was used then the Investigating Officer, or in his/her absence the Monitoring Officer, shall present the Investigating Officer's report having particular regard to any points of difference identified by the Subject Member and why the Investigating Officer had concluded, on the basis of their findings of fact, that the Subject Member had failed to comply with the Code of Conduct. The Investigating Officer or Monitoring Officer may call witnesses as necessary in order to substantiate his/her findings.
- c) The Subject Member will then be given the opportunity to ask the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- d) Members of the Member Standards Sub Committee, the Independent Person who was consulted by the Monitoring Officer through the process, and the Monitoring Officer will then have the opportunity of asking the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen in the witness statements.
- e) The Subject Member will then be invited to respond to the Investigating Officer's report and provide evidence, either by calling witnesses or by making representations to the Member Standards Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.
- f) The Investigating Officer will then be given the opportunity to ask the Subject Member and any witnesses, questions relating to the representations made to the Member Standards Sub Committee.
- g) Members of the Member Standards Sub Committee, the Independent Person who was consulted by the Monitoring Officer through the process, and the Monitoring Officer will then have the opportunity to ask the Subject Member, and any witnesses, questions relating to the representations made to the Member Standards Sub Committee.
- h) The Investigating Officer will then be given the opportunity to sum up.
- i) The Subject Member will then be given the opportunity to sum up

- j) The Independent Person who was consulted by the Monitoring Officer through the process will then be invited to comment and outline their view in respect of the complaint.
- k) The Chairman will check with the other members of the Member Standards Sub Committee whether they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter. If it is decided that additional evidence is required before a determination can be made then the hearing will be adjourned and the Investigating Officer or Monitoring Officer will be asked either to seek and provide such additional evidence and/or undertake further investigation on any point specified by the Member Standards Sub Committee.
- l) If the Member Standards Sub Committee is satisfied that that they do have sufficient evidence to make a decision this will conclude the evidence gathering part of the hearing. The Investigating Officer, the Subject Member, the Independent Person who was consulted by the Monitoring Officer through the process, and any witnesses that might be present will be asked to leave at this point, but the clerk and Monitoring Officer to the Sub Committee will remain.
- m) The Member Standards Sub Committee will then determine the complaint on the balance of probabilities. If the Member Standards Sub Committee determine that there has been a failure to follow the Code they shall seek advice from the Monitoring Officer as to what action they believe should be taken against the Subject Member.

## **2 Findings of the Member Standards Sub Committee**

### **2.1 No Finding of a Failure to follow the Code of Conduct**

If the Member Standards Sub Committee determine that the Subject Member has not failed to follow the Code of Conduct then the complaint will be dismissed.

The Monitoring Officer shall prepare a decision notice in consultation with the Chairman of the Member Standards Sub Committee stating the Member Standards Sub Committee's findings in relation to a non-failure to follow the Code of Conduct . The decision notice will be provided to the Subject Member, the Investigating Officer if relevant, the complainant(s) and the Independent Person who was consulted by the Monitoring Officer through the process for their information.

### **2.2 Finding of Failure to follow the Code of Conduct**

If the Member Standards Sub Committee determines that the Subject Member has failed to follow the Code of Conduct then it can decide to take any or more of the following actions:

- a) Formally censure the Subject Member in writing for their failure to follow the Code of Conduct;

- b) Recommend to the Subject Member's Group Leader (or in the case of un-grouped Members, recommend to Council or any subcommittee(s) of Council) that the Subject Member be removed from any or all subcommittee(s) of the Council;
- c) Recommend to the Leader of Council that the Subject Member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- d) Instruct the Monitoring Officer (or recommend that the relevant Town/Parish Council, as appropriate) to arrange training for the Subject Member;
- e) Remove (or recommend to the relevant Town/Parish Council that the Subject Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town/Parish Council);
- f) Withdraw (or recommend to the relevant Town/Parish Council that it withdraws) facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access;
- g) Exclude (or recommend that the relevant Town/Parish Council exclude) the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council or Panel meetings; or
- h) Report its findings to the Crown Prosecution Service in respect of a Subject Member that has been found to have committed an offence under s30 and/or s31 Localism Act 2011.

### **2.3 Publication of the Decision on Finding a Breach of the Code of Conduct**

Within 5 working days of the decision, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Member Standards Sub Committee. A copy of the decision notice will be sent to the complainant(s), the Subject Member (and, if applicable, the relevant Town/Parish Council) and the Independent Person who was consulted by the Monitoring Officer through the process for their information.

A decision that a Subject Member is in breach of the Code of Conduct will be published on the Council's website for 12 months unless the Member Standards Sub-Committee consider an alternative time is appropriate.

The Subject Member has no right of appeal to the Council against a decision of the Monitoring Officer or the Member Standards Sub Committee.



# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **B – MEMBERS’ PLANNING CODE OF CONDUCT**

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## 1. INTRODUCTION

- 1.1 This Code of Practice and Procedure is a **guide** for both Members and Officers who deal with planning applications, planning policy and guidance. Unlike the Members; Code of Conduct it is not a legal requirement, however the Code should be followed at all times to avoid allegations of malpractice. It is consistent with the Members' Code of Conduct, which forms part of the Constitution (Part 7A) and to which all Members are subject. It incorporates advice from the Local Government Ombudsman, the National Planning Forum, and the "Probity and Planning" report produced by the Local Government Association and Planning Advisory Service. This Code supersedes previous advice given to Members and Officers.
- 1.2 A successful planning system relies on mutual trust and an understanding of both Members' and Officers' roles, who should both act not only in a fair and impartial way but be seen to do so whilst reflecting best practice, thereby increasing public confidence; reducing the likelihood of Borough decisions being challenged; and helping Members and Officers in dealing with what may be difficult situations. If you do not follow this Code, you may put:
- the Council at risk of proceedings on the legality or maladministration of a discussion; and
  - yourself at risk of being named in a report made to the Council, or if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Chief Executive.
- 1.3 Making a planning decision requires an informed judgement based upon firm policies. The decisions reached by Members and Officers will affect the daily lives of everyone including the private interests of individuals, be it applicants or adjoining neighbours, landowners and developers. It is imperative that the planning system is an open process actively inviting public opinion before decisions are made. The process of decision-making must therefore be transparent in nature.
- 1.4 The Human Rights Act 1998 also has a role within the planning process. The normal rule under the Act is that it is unlawful for a public authority to act in a manner which is incompatible with a Convention right. A breach of this rule would entitle the relevant party to a variety of remedies or damages in certain cases. The Act allows for a right to a fair hearing and rights to private property. When considering a planning application, it must be considered whether these rights have been complied with.

## 2. GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS

- 2.1 Members and Officers have defined roles within the planning process. Members are responsible to the public, whereas Officers are responsible to the Council. All statutory provisions and codes setting out standards must be followed. In doing so, this will preserve the public perception of the integrity of public service which must be maintained.
- 2.2 The Officers' role is to advise Members of the Council of the relevant planning policies and other material considerations, whilst the Members' role is to take planning decisions based on that advice.
- 2.3 Members exercise two roles in the planning system.
  - They determine applications, arriving at a decision to grant or refuse permission by using planning criteria and by excluding non-planning considerations.
  - They act as representatives of public opinion.
- 2.4 Officers must be objective and impartial at all times. The areas of professional advice to be given will include planning, legal and highway issues and this advice must be based on the officers' professional judgement. This advice must not be compromised or influenced by political considerations although these may be relevant through the formal development of the Council's planning policies.
- 2.5 Members are all subject to the Code of Conduct which sets out their responsibility to identify and declare any pecuniary interest, and that they must not take part in any discussion or debate on any matter in which you have a pecuniary interest.

### **3. DECLARATION AND REGISTRATION OF INTERESTS**

- 3.1 Each Member is responsible for declaring their interests, but advice can be sought from the Monitoring Officer, Head of Governance or legal officer and / or clerk to the Panel. Further advice regarding individual declarations of interest can be found in the Members' Code of Conduct and in the guidance produced by the Department of Communities and Local Government. Failure to disclose an interest may have the consequences set out in paragraphs 3.13 below.
- 3.2 The Local Government Act 2000 (as amended by the Localism Act 2011) re-obliged Local Authorities to introduce a Code of Conduct for Members. The Code was adopted by the Council on July 2012. The requirements relating to the declaration of Disclosable Pecuniary Interests are detailed in the Members' Code of Conduct found earlier in this section. The requirements of the Code of Conduct are applicable to Members when dealing with planning matters.

- 3.3 A Statutory Register of Members' Interests is maintained by Democratic Services. It is the individual Member's responsibility to notify the Monitoring Officer of any changes to their own Interests, whether by way of addition or deletion, as soon as they occur. Members are also required to register any gifts or hospitality received, over £25 in value.
- 3.4 Members and Officers must observe the Council's Anti-Fraud and Corruption Policy which aims to identify issues of fraud and corruption, bring them into the open and ensure that investigations are carried out appropriately. **The policy clearly states that when dealing with planning applications, gifts or hospitality must not be accepted.** Examples of what is meant by "gifts and hospitality" are given in the Policy. Again, if required, advice can be sought from the Monitoring Officer.
- 3.5 Any Member who has substantial property interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on the Development Management Panels.
- 3.6 **Disclosable Pecuniary Interests**
- Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. Members may have a Disclosable Pecuniary Interest if the issue being discussed affects them more, either positively or negatively, than other people in the area. The Member must say they have a Disclosable Pecuniary Interest and may make representations but must not participate in any discussion of, vote on, or discharge any function related to, any matter in which they have a pecuniary interest, unless dispensation has been granted. The definition of a Disclosable Pecuniary Interest is set out in Sections 8 & 9 of the Members' Code of Conduct found earlier in this section.
- 3.7 A Member with a Disclosable Pecuniary Interest in a matter who attends a meeting at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of its consideration, or when the interest becomes apparent. Having done this the Member can remain in the meeting, can make representations, but may not speak further or vote on the matter unless they have been granted dispensation. The Member should make the declaration at the beginning of the meeting or as soon as they are aware of the issue being discussed. The Member should say if anything being discussed relates to anything they are required to declare on the register of interests.

3.8 Disclosable Pecuniary Interests in relation to planning applications could include:-

- an application made by or on behalf of the Member
- ownership/occupation of the property directly the subject of the application
- an application relating to a site which is a close neighbour of the Member's property. Immediate neighbours are almost certainly likely to give rise to a prejudicial interest. How far this may extend would depend upon the development proposed, and the location of the properties. Each case would need to be judged on its own merits and it would not be appropriate to have hard and fast rules to apply to all circumstances. Relevant factors could include:
  - generation of more or less traffic locally
  - visual impact on the Member's property
  - whether a precedent for the area might be established which could affect the Member's property
- an application made by, or on behalf of, or affecting a company or firm in which the Member has an interest (e.g. is remunerated Director or is a Partner)
- where the Member is involved in a firm or company associated with an application site, e.g. where the firm is the agent, architect, the development company, etc.
- an application made by, or on behalf of, or affecting a club or society, etc., to which the Member belongs, e.g. Freemasons, trade unions, voluntary bodies, etc.

These examples would also apply to matters where enforcement or any other action was being considered. The list cannot be exhaustive and Members are encouraged to seek guidance from the Monitoring Officer. Some case studies are included after paragraph 3.18 below.

3.9 ***Where your interest is a Disclosable Pecuniary Interest:-***

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** get involved in the processing of the application.
- **Don't** seek to accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** notify the Monitoring Officer in writing of your own interest and note that:

- notification to the Monitoring Officer should be made no later than submission of the application;
- the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
- it may be advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee (where permitted).

3.10 A Member may, however, regard himself as not having a Disclosable Pecuniary Interest in a matter if that matter relates to:

- (i) another relevant authority of which he is a Member (in practice this refers to Parish or Town councils, the Fire Authority and the Police Authority)
- (ii) another public authority in which the Member holds a position of general control or management and would include:
  - any Government Department
  - the Armed Forces
  - Health Authority, NHS Trust, PCT
  - Education Governing bodies
  - Advisory bodies
  - The Arts Council
 (See Schedule 1 to the Freedom of Information Act 2000.)
- (iii) a body to which he has been appointed or nominated by the Council as its representative (e.g. a Governor of a school).

[There are similar provisions for Members who are Council tenants, when considering school meals, transport and travelling expenses and the Member is the parent or guardian of a pupil (unless the item relates to the particular school where the child is a pupil), to matters relating to sick pay and Members' Allowances.]

The interest must be declared and the Member is still required to consider all the surrounding circumstances before deciding whether it is appropriate for them to stay in the meeting and take part in the debate and vote. There may be additional factors present which make the interest prejudicial. Advice can always be sought from the Monitoring Officer.

3.11 The Local Government Ombudsman has confirmed that there are times when a Member may lose the right to act as a private individual. If you have a Disclosable Pecuniary interest that is required to be declared and would mean you that you cannot take part in the discussion - you cannot attend as if you were a member of the public.

### **Effect of Failing to Declare an Interest**

- 3.14 If a Member fails to declare an interest it is a criminal offence if you fail, without reasonable excuse, to comply with the requirements under s30 or s31 Localism Act 2011 to register or declare Disclosable Pecuniary Interests, or take part in council business at meetings or when acting alone, when prevented from doing so. If a Member fails to declare an interest, the Magistrates Court may, upon conviction, impose a fine of up to level 5 (currently £5,000.00), and an order disqualifying the person from being a Member of a relevant authority for up to five years.

### **Interests of Officers**

- 3.15 Officers must act impartially. The Council will review, on a regular basis, the restrictions adopted on outside activities under the Local Government and Housing Act 1989 under which private work and interests are declarable.
- 3.16 Officers must declare any interests in any planning matter or application before the Council, must not deal with such matters on behalf of the Council, and must not give advice to Members or other officers on them. An officer with an interest or financial interest in a planning matter must withdraw from any relevant Panel or Council meeting whilst the matter is discussed. Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental pressure groups. This also applies in the case of delegated decisions. If an officer has an interest in an application, he/she must declare that interest and take no part in its processing or in the making of the decision.

## **4. PRE-APPLICATION DISCUSSIONS**

- 4.1 The Chairman and Members of any of the Development Management Panels normally should not become involved in any discussions or negotiations relating to any planning application or proposed planning application (whether for or against that proposal or application), which may be the subject of consideration at the Panel of which he is Chairman or a Member. A Cabinet Member or relevant Panel Chairman or Vice-Chairman should become party to the negotiations or attend meetings if requested to do so by the Head of Planning. The relevant Officer must always be present at such meetings or negotiations.
- 4.2 Whilst such discussions between developers, officers and third parties who are opposed to or in favour of any particular development may be encouraged, it will always be made clear at the outset, that such discussions will not bind the Council to make a particular decision, and any views expressed are personal and provisional.



- 4.3 Officers should be present with Members at pre-application meetings. Officer advice given will be consistent and based upon the Development Plan (i.e. Structure and Borough Local Plan and Neighbourhood Plans) and other material considerations. Every effort will be made to ensure that there are no significant differences of interpretation of planning policies between Planning Officers.
- 4.4 A written note will be made of any pre-application discussions. An officer should take notes at the meeting, as well as note of any phone conversations or relevant e-mails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file.
- Two or more Officers will attend potentially contentious meetings, with a follow up letter sent, particularly when documentation has been left with the Borough.
- 4.5 Care will be taken to ensure that advice is seen to be impartial.
- 4.6 Except to the extent set out in the Rules of Procedure, to maintain impartiality the general rule is that Members should not take part in pre-application discussions and if they do should always be accompanied by an officer.

## **5. DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS THEIR CLOSE RELATIVES AND OFFICERS AND COUNCIL DEVELOPMENT**

- 5.1 Members whose business or other interests are likely to bring them into frequent contact with the planning system should generally avoid selection for Development Management Panels.
- 5.2 Any planning proposals submitted by Members, their close relatives, officers or the Council (be they planning applications, development plan proposals or enforcement issues) can easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted but it is vital to ensure they are handled in a manner which gives no grounds for accusations of favouritism.
- 5.3 In order to avoid any risk of criticism in all cases of an application by a (i) Member or a member of their family, and there are objections to it or it is contrary to the adopted planning policies; or (ii) an Officer employed in a role which is part of or interacts with the planning application process and there are one or more objections or it is contrary to adopted planning policies then in either case the application will be considered by the appropriate Development

Management Panel and not by officers under delegated powers. The Report must clearly state the applicant is a Member or an Officer of the Council.

- 5.4 Proposals for the Council's own development (or a development involving the Council and another party) and private applications in respect of Borough owned land (e.g. prior to a land sale being agreed or negotiated) – will be determined by the relevant Development Management Panel and not delegated to Officers. Decisions will be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Borough if the development is permitted. It is important that the Borough is seen to be treating such applications on an equal footing with all other applications as well as actually doing so.
- 5.5 Members who act as agents for people making an application to the Royal Borough should play no part in the decision-making process for that proposal, neither should they, nor an officer, play any part in relation to their own personal application.
- 5.6 The Monitoring Officer will be notified of such applications so that this officer can confirm that relevant applications have been processed properly.

## **6. LOBBYING OF, AND BY, MEMBERS AND ATTENDANCE AT PUBLIC MEETINGS**

- 6.1 Members may be subject to lobbying (both for and against) on planning matters and specific planning applications. Great care is essential to maintain the Council's, and indeed, the Member's own integrity and the public perception of the planning process when Members are lobbied.
- 6.2 Taking account of the need to make decisions impartially, Members should not favour, or appear to favour, any person, company, group or locality. Members should remember that they have a duty to represent the interests of the whole of the Council's area.

Councillors who are members of a lobbying group which has publicly expressed support for or against an application, will certainly have a personal interest which should be declared. An example might be membership of a Residents' Association which regularly comments on applications. The Member may also have a prejudicial interest but this will depend on careful consideration of all the surrounding circumstances (for example the Member's role in the group and the extent to which the Member is publicly identified with their position). If in doubt, the matter should be discussed with the Council's Monitoring Officer.

- 6.3 Ward Members should maintain an uncommitted position on an application, until the time for decision comes. The Panel can expect help from Ward Members in drawing relevant local circumstances to the Panel's attention, but Members are reminded that they are elected to serve the interests of the whole Borough, not just their Ward, and that they should restrict their contributions to material planning matters.
- 6.4 Members must be aware that if they express a particular view on a planning application, before they have had the opportunity to consider all the relevant representations and facts at the appropriate Panel, they may be predetermining the application and it may be inappropriate for them to be involved in the final decision process. Members should therefore ensure that they attend the Panel with an open mind, ready to consider each application on the arguments before them.

In addition those Members who have come to, and indicated this before the meeting, a conclusive view on an application or other planning matter, should carefully consider whether their continued involvement in determining the application or other matter would prejudice the integrity of the planning process. Their continued involvement could also amount to maladministration in such cases. Further guidance, if required, can be given by the Monitoring Officer, or their representative at the Panel meeting.

- 6.5 If it is suggested that the public believe the Member had come to a clear view on the planning matter or application before the meeting when the decision is to be made, there should be some reasonable basis for the public belief. This might be a quote from the Member in the press or authentic reports of statements made etc. which are not repudiated by the Member or evidence in written form from the Member, e.g. letters of objection. In such cases the Member should not take part in the debate on, or vote on the issue as this would be unfair and prejudicial and may amount to maladministration.
- 6.6 Advice will always be available on this topic from the Monitoring Officer or the legal adviser.
- 6.7 Members who will be involved in the determination of a planning matter may, prior to any meeting, listen to a point of view about a planning proposal and may be asked for planning or procedural advice. The Member should refer the person making the request to the Case Officer or Unit Manager.
- 6.8 Individual Members should reach their own conclusions on an application or other planning matter rather than follow the lead of another Member. Any political group meetings prior to Panel meetings should not be used to decide how Members should vote and the party whipping process should not be used in relation to

planning applications. Planning decisions cannot be made on a party political basis in response to lobbying.

- 6.9 Members involved in decision making on planning matters should not organise support or opposition to a proposal, lobby other Members, or act as an advocate or put pressure on Officers for a particular recommendation or decision.
- 6.10 As long as a Member is not prevented from attending and/or speaking and voting at a meeting for the reasons set out in this Code, any Member of the Council may attend any Development Management Panel of which he/she is not a Member. Members are requested to notify Democratic Services in advance of the meeting if they intend to speak, as this can affect the timings of the meetings.
- 6.11 Members (in particular Members involved in determining planning matters) who find themselves contacted by an individual or group as a lobby should explain that whilst they can listen to what is said, it prejudices their impartiality to express a firm point of view or an intention to vote one way or another. As regards unsolicited written material from individuals or groups, it is suggested that the Planning Case Officer should be contacted to ascertain if he has received a similar communication. This will ensure that all the necessary information has been received by the Council and also enables Officers to comment on the contents of that material before any decision is made on the determination of the application. If any Member considers that they have been exposed to undue or excessive lobbying or approaches, this should be reported to the Monitoring Officer, who will in turn advise the appropriate Officers.
- 6.12 Officers involved in the processing or determination of planning matters should not attend public meetings in connection with development proposals (i.e. pre-application) or submitted planning applications unless those meetings have been arranged by or with the express agreement of the Panel or of the relevant Head of Service or Director. To do so could lead to allegations of bias or prejudice in relation to a particular point of view. If put in such a position, inadvertently, Officers should only provide information and give no view on the merits or otherwise of the proposal.
- 6.13 Similarly Members involved in the determination of planning applications should take great care to maintain impartiality when attending public meetings in relation to planning matters. At such meetings it is preferable for no view on the merits or otherwise of a proposal to be given.
- 6.14 If the Monitoring Officer believes that a Member has prejudiced their position by expressing a conclusive view on an application before its determination by the Panel, the Monitoring Officer will advise the Member that it would be inappropriate for that Member to take part in the debate, or vote on the application.

- 6.15 If Members are requested to provide information by any individual or group, then regard should be had to the general provision under the Code of Conduct as to disclosure of information. A Member must not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required to do so by law; nor should a Member prevent another person from gaining access to information to which that person is entitled by law. If a Member has any doubt as to whether the information requested can be provided, then they should contact the Monitoring Officer for further advice.

## **7. PARISH COUNCILLORS**

- 7.1 There is nothing in the Code of Conduct which prevents dual-hatted Members (councillors who serve on Parish/Town councils and on the Borough Council) speaking and voting at both parish and unitary tiers on the same planning issue. The advice is that Members who take this course need to declare their membership of the Parish or Town Council as an interest when attending the Borough's Planning Panel. The advice goes on to emphasise that:

*“Members are under a legal obligation to approach decision making with an open mind, prepared to listen to all sides of the argument. Dual-hatted Members who choose to speak and vote at Parish and principal levels will need to make it very clear that their vote at Parish level represents a preliminary view and that they will reconsider the matter afresh at principal level. Failure to do this may lead to a legal challenge of the principal authority's (the Council's) decision on the grounds of predetermination.”*

Different considerations apply where a Parish Council is the applicant in relation to a particular planning application.

- 7.2 Each Parish and Town Council has its own Code of Conduct which is substantially in the same terms as the one that this Council has adopted.

## **8. OFFICER REPORTS TO PANEL**

- 8.1 Reports to Panels on planning matters must be balanced, accurate and cover all relevant points. Where a planning application is subject to a full report this will refer to the relevant provisions of the Development Plan, and all other relevant material planning considerations. Where appropriate this will include a full description of the site and any related planning history. It will also contain a summary of statutory and non-statutory representations received.

- 8.2 As recommended by the Nolan Report, all reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and any oral reports will be carefully minuted when this does occur. New objections do not need to be specifically minuted and will be treated as updates.
- 8.3 All reports will contain an appraisal which clearly justifies the stated recommendation, together with all policies to be relied upon in terms of approving or rejecting an application. Any relevant policies not specifically mentioned in the Report but raised during debate will be minuted.
- 8.4 All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous, and when not contained in the Officers' recommendations will be minuted. Whenever the Development Management Panel resolves not to follow approved policies, then this must be recorded clearly together with convincing reasons for the decision. If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.

## **9. SITE VISITS**

- 9.1 Whether formal or informal site visits are made, Members should be careful to follow this guidance taken from the Nolan Report.

In all cases the Member should avoid committing themselves one way or the other in respect of the application and must not give any undertakings as to how they would vote. Members must not enter into discussion on the merits of the application and should not be seen to take sides. If they do speak to an applicant the Member should also try to speak to local objectors. Members should keep to public highways and only go onto private land if invited. They have no right to go onto the application site or adjoining property. If a site visit is made the Council's identification badge should be carried on such visits.

- 9.2 A decision by a Panel to carry out a formal site visit normally only takes place where it is felt by the Panel that decisions cannot be taken without viewing the site and adjoining properties. Examples of when formal site visits might be appropriate would be where:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material; or
- the proposal represents a departure from the Development Plan; or
- the proposal is contrary to a specific policy, or raises wider policy issues; or

- the proposal raises particularly unusual factors, for example it would have a major environmental impact or could lead to loss of jobs and/or financial hardship (e.g. enforcement against an existing use or development that has already been carried out); or
  - there is considerable local concern about a proposal, allied to planning reasons for carrying out a visit (e.g. the physical relationship of the site to other sites in the neighbourhood).
- 9.3 The purpose of a site visit is for Members to use the visit for fact finding to gain further knowledge of the development proposal, the application site and its relationship to adjacent sites.
- 9.4 Following formal site visits Officers will prepare a report on the planning issues and any relevant information obtained from the site visit to enable the next Panel to determine the application. Where appropriate, officers will attempt to secure reasonable access to the application (or objector's) site. Site owners are under an obligation to permit access to the Members and Officers present but are under no such obligation to any other resident or interested party.
- 9.5 The agreed procedures do not allow Members to receive representations from interested parties i.e. the Applicants and Objectors during the course of the site visit. All representations are made in the Panel meeting itself. No decision is made at the site visit, and it is essential that Members and Officers ensure that those attending are not led to believe that a decision has been taken on the visit, or that conclusive views have been reached. Site visits should not be used as a lobbying opportunity by objectors or supporters, and this should be made clear to any members of the public who may be in attendance.
- 9.6 Officers will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site visit, the format and conduct of the visit, and if appropriate the procedure for applicants/agents and interested parties to address Members.
- 9.7 Those Members wishing to make representations, either on the application or to emphasise (or rebut) any specific issue arising from the site visit, can do so when the matter is reported back to the Panel for a decision. Other parties, applicants and objectors can make written submissions to the officers which will be reported to the Panel.

## **10. PRE-PANEL TECHNICAL BRIEFINGS**

- 10.1 Officers will provide a briefing to all Members of the Panel prior to any meeting of the Panel. These briefings will advise of any verbal updating at the meeting that will be necessary and to afford the Members an opportunity to give notice to the Officers of any potential

problems. No decisions are or can be made at these briefing meetings.

## **11. DETERMINATION OF PLANNING APPLICATIONS**

- 11.1 When dealing with planning matters only material planning considerations must be taken into account. Any decision made should be justified against the Development Plan and other material considerations. The Panel's reasons should be clear and convincing.
- 11.2 If the Development Plan is material to the application then the statutory position is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise. [Section 54A of the Town and Country Planning Act 1990 (as amended).]
- 11.3 Officers involved in the processing and determination of Planning applications also must act in accordance with the Council's Disciplinary Rules and Procedures, Procedure Rules within the Constitution, Member and Officer Code of Conduct and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
- 11.4 Where any of the Development Management Panels are considering a planning application, members of the public and applicants shall be entitled to speak prior to determination of the application in accordance with the Protocol on Public Speaking at Planning Meetings which forms part of the Council's Constitution, Part 7F.
- 11.5 Under the Council's Scheme of Officer Delegation certain types of applications may be determined by the Head of Planning. These are listed in the Council's Constitution.
- 11.6 If a Member requests that an application normally determined under delegated powers should be referred to a Development Management Panel the Member is asked to complete a formal request card or submit that request in writing providing reasons for referring the application to Panel if possible - but this is a matter for their own discretion. The completed request should be given to the Head of Planning so that the Officers' report can contain any information relevant to the reason for referral.

## **12. THE DECISION MAKING PROCESS AND DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN**

- 12.1 Where the Development Plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise.



- 12.2 In discussing, and then determining, a planning application or other planning matter Members must confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing, and supported by planning evidence. If Members wish to refuse or approve an application against Officer advice, or impose additional conditions to the permission, the reasons for refusal, approval or the additional conditions to be applied must be clearly stated at the time the propositions are moved at the meeting. A detailed minute of Members' reasons will be made.
- 12.3 Panel meetings are well attended by the public, applicants and professional advisers, and objectors. It is particularly important that Members and Officers are seen to conduct the business of the Panel in a fair and sensitive manner. The debate on a planning application should be confined to the planning merits of a development proposal.
- 12.4 If the Officer's report recommends approval of a departure from the Development Plan, the justification for this should be included, in full, in the report.
- 12.5 Wherever approved policies are not followed clear and convincing reasons must be recorded. Legal and Planning Officers will always attend meetings of the Panel to advise so that procedures can be properly followed and planning issues properly addressed and to advise the Chairman and Members.

### **13. MINUTES**

- 13.1 The Minutes shall be a full and detailed record of the decisions made at the Panel. Updating of reports by officers does not have to be recorded but new issues introduced and policies used for making the decision will be recorded in the minutes.
- 13.2 If a resolution is passed which is contrary to the Officer recommendation (whether for approval or refusal) a detailed Minute of the Panel's reasons will be made and a copy placed on the application file.
- 13.3 Details of any declarations of Interest will be recorded under a separate heading in the Minutes.

### **14. COMPLAINTS AND RECORD KEEPING**

- 14.1 If a member of the public, or applicant, wishes to complain about the Council's process of an application, this will be dealt with in accordance with the Council's Complaints Procedure. In the first instance they should write to the Head of Planning. The complaint will be acknowledged in writing and will be investigated as quickly as possible; a written reply will be given. The Council's complaints

process will not deal with dissatisfaction with a planning decision that has been made.

- 14.2 So that complaints can be fully investigated and, in any case, as a matter of general good practice, record keeping will be complete and accurate. Every planning application file must contain an accurate account of events throughout its life, with particular care being taken with regard to those applications that are likely to be determined by officers under delegated authority. Such decisions should be as well documented and recorded as those taken by the Panel.
- 14.3 A record of all written complaints received by the Head of Planning will be maintained, and will be monitored regularly.

## 15. BREACH OF CODE

- 15.1 Any breach of this “Code of Conduct” will be reported to the Monitoring Officer, who will investigate the matter and take such action as necessary.

## 16. TRAINING

*Do make every effort to attend the planning training provided by the Council if you are going to participate in meetings dealing with planning matters.*

*Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum, thus assist you in carrying out your role properly and effectively.*

*Do suggest to the Head of Planning any other areas of planning legislation you require training on*

## 17. SUMMARY

Serving as a Member of the Council and as a Member of a Development Management Panel brings clear responsibilities to the whole community and not to any particular section of it. Similarly the whole community has a right to expect Members of the Council and Panels to consider matters transparently, impartially and fairly having regard only to relevant information and disregarding irrelevant details.

# **PART 7 – THE CODES PROTOCOLS AND ADVICE**

## **C – OFFICERS’ CODE OF CONDUCT**

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## **Code of Conduct for Employees**

### **1. Introduction**

- 1.1 The public is entitled to expect the highest standards of conduct from all staff who work in Local Government and therefore from all staff who work for the Royal Borough. The role of all employees is to serve the Council by providing advice, implementing Council policies and delivering services to the local community. In performing these duties all our staff are required to act with integrity, honesty, impartiality and objectivity.
- 1.2 Under section 82 of the Local Government Act 2000, the Secretary of State has powers to issue a statutory code of conduct for employees of local authorities. At present only a draft code exists. This code of conduct reflects the principles contained within the draft code and refers you to existing Council policies, procedures, guidelines, regulations etc that govern the way we work.
- 1.3 It is not the intention that the contents of this code conflict with other statutory or professional codes of conduct. Where membership of a Professional Association is required as part of a post holder's accountabilities, any Professional Code of Conduct will be deemed to be part of the Council's Code of Conduct. In the event you feel that there is a conflict between your Professional Code of Conduct and the Council's Code of Conduct, advice should be sought in the first instance from your line manager.

### **2. Accountability**

- 2.1 Employees must be accountable to the Council for their actions. Therefore, you are required to act in accordance with this code and any other relevant policies, procedures, guidelines, regulations etc, in recognition of your responsibility as a Council employee in undertaking and delivering your public duties.
- 2.2 The aim of this code is to:
  - Promote the highest standards in public life and engender confidence in the Council and our employees
  - Promote good and effective working relationships
  - Protect our employees from misunderstanding or criticism.

Although this code cannot be exhaustive, its intention is to provide sufficient information to make you aware of what is required of you. Therefore, if in any doubt, you should consult your line manager.

- 2.4 This code applies to all Council employees.
- 2.5 Any breach of this code will be investigated under the Council's Disciplinary Policy and Procedure and appropriate action taken if required.

### **3. Political Neutrality**

- 3.1 All employees, whether or not 'politically restricted' (see 3.4) must follow Council policies and you must not allow your own personal or political opinions to interfere with your work.
- 3.2 All employees serve the authority as a whole. Therefore, you are required to serve all Members and not just those of the controlling group or groups and must ensure that the individual rights of all Members are respected. For further information, you are referred to Part 7 D Member/Officer Protocol, in the Council's Constitution.
- 3.3 Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989, shall be exempt from Section 3 of this code.
- 3.4 The Local Government Officers (Political Restriction) Regulations 1990 SI1990/881 as amended and the Local Government (Politically Restricted Posts)(No2) Regulations 1990 impose restrictions on political activities of certain employees. These are known as Politically Restricted posts. Where relevant, this information is included in contracts of employment and information is provided to individual employees as appropriate.

### **4. Relationships**

#### **4.1 The Local Community and Service Users**

You must remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all individuals and groups as defined by Council policies, procedures etc.

#### **4.2 Contractors**

Contracts must be awarded on merit, by fair competition against others tenders and no special favours shown in the tendering process to businesses run by, for example friends, relatives, partners etc. You are required to comply with the Business Dealings with Personal Associates and Declarations of Interest policy when dealing with any potential or actual contractors.

#### **4.3 Members**

Mutual respect between employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Close personal familiarity between employees and individual Members can damage that relationship and prove embarrassing to other employees and Members. Therefore, close personal friendships should be avoided. For further information, you are referred to Part 7 D, Member /Officer Protocol..

#### **4.4 Media**

You must comply with the Council's Media Protocol, which sets out the requirements in relation to dealings with the media. Further advice is also available in the Private Work and Conduct guidance.

## **5. Equality**

- 5.1 All employees are required to ensure that the Council's policies relating to equality issues are complied with in addition to the requirements of relevant legislation. All members of the local community, customers and other employees have a right to be treated with fairness and equality. We expect each member of staff to create a positive climate in the workplace where individual differences are respected and valued.
- 5.2 The Council's requirements in respect of equalities is set out in our Equality and Diversity policy as well as our Dignity at Work Policy.

## **6. Use of Resources**

- 6.1 All staff must ensure that they use public funds and/or resources entrusted to them in a responsible and lawful manner.
- 6.2 The personal use of Council property, resources, vehicles or other facilities is not permitted unless authorised to do so by a Director.
- 6.3 Employees must strive to achieve value for money for the local community.
- 6.4 The use of resources is defined within such documents as: the Council's Constitution; Contract Standing Orders; Financial Regulations/Standing Orders; Expenses Policy; Information Security Policies, including Physical Security Policy; IT Access Security Policy; Remote Working Policy; Use of Email Policy; Use of Internet Policy; Use of Mobile Phone Policy, and the Care and Use of Council Owned Equipment Policy. This is not an exhaustive list.

## **7. Avoiding Fraud and Corruption**

- 7.1 In addition to Section 6, it must be understood that it is a criminal offence for you, in your capacity as an employee of the Council, to receive or bestow any personal advantage as part of your day to day role and responsibilities. In order to ensure that you understand the issues associated with fraud and corruption, you should refer to the Council's Anti-Fraud and Anti-Corruption Strategy and the Guidance Notes on Anti-Fraud and Anti-Corruption for Employees. This document has been updated to reflect the requirements of the Bribery Act 2010.
- 7.2 The guidance notes referred to in 7.1 also contain advice in relation to the acceptance and giving of gifts and hospitality.

- 7.3 Whilst the private lives of employees are their own concern, we cannot allow private interests to conflict with your and our public duty. You are referred to the Council's guidance on Private Work and Conduct; Business Dealings with Personal Associates; Declarations of Interest and the Social Media Policy.
- 7.4 Employees involved in tendering processes and dealing with contractors must operate within the Council's Constitution, Contract Standing Orders and Financial Regulations/Standing Orders. Advice and guidance are available from the Procurement and Legal services.

## **9. Raising Concerns at Work (Whistleblowing)**

- 8.1 Should you become aware of activities you believe to be fraudulent, not in accordance with Council policy or inconsistent with this code, you should use the Council's Raising Concerns at Work (Whistleblowing Policy) to raise your concerns.
- 8.2 Treatment of Information
- 8.3 This Council strives to deliver open government. The law requires that certain types of information must be made available to Members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Staff will be advised through the publication of policies and Council communications what information is, or is not open, and must act accordingly.
- 8.4 You must not use any information obtained in the course of your employment for personal gain or benefit, nor must it be passed to others who may use it in such a way.
- 8.5 The Council's policy on the disclosure of personal information is contained in the Use and Disclosure of Personal Information policy.
- 8.6 When using information you must be mindful of the requirements of the Data Protection Act. Advice on which is contained in the Data Protection Guidance for Employees and the various Information Security policies.
- 8.7 You are also referred to the Council's policy on the Use of Email and Guidance to Officers Speaking at Conferences.
- 8.8 Nothing in this section should be seen to conflict with the requirements of the Freedom of Information Act 2000.

## **9. Treatment of Information**

- 9.1 This Council strives to deliver open government. The law requires that certain types of information must be made available to Members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Staff will be advised through the publication of



policies and Council communications what information is, or is not open, and must act accordingly.

- 9.2 You must not use any information obtained in the course of your employment for personal gain or benefit, nor must it be passed to others who may use it in such a way.
- 9.3 The Council's policy on the disclosure of personal information is contained in the Use and Disclosure of Personal Information policy.
- 9.4 When using information you must be mindful of the requirements of the Data Protection Act. Advice on which is contained in the Data Protection Guidance for Employees and the various Information Security policies.
- 9.5 You are also referred to the Council's policy on the Use of Email and Guidance to Officers Speaking at Conferences.
- 9.6 Nothing in this section should be seen to conflict with the requirements of the Freedom of Information Act 2000.

## **10 Appointment of Staff**

- 10.1 Employees involved in appointments should ensure compliance with the Council's Recruitment and Selection Code of Practice and ensure that appointments are made on the basis of merit. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a personal relationship outside work.
- 10.2 Similarly, there should be no involvement with decisions relating to discipline, grievance, promotions or pay adjustments for other employees who are relatives, partners or with whom you have a personal relationship outside work.

## **11 Safety and Security**

- 11.1 As your employer, the Council has a legal responsibility to safeguard as far as reasonably practicable, your health, safety and welfare whilst at work. Similarly, you too have a responsibility for your own safety and that of others. For further information refer to the Corporate Health and Safety Policy and any local Health and Safety Policies produced by your own directorate/service area.
- 11.2 You are required to adhere to the Council's Physical Security Policy and to wear your identification badges whilst on Council premises or whilst performing your duties.
- 11.3 You are required to comply with the Council's Care and Use of Council Owned Equipment Policy.

## 12 Standard of Appearance

- 12.1 The Council expects high standards of appearance from you whilst undertaking your duties. You are expected to dress professionally, in a suitable manner and appropriately for the job you undertake.
- 12.2 Uniforms, if issued, must be worn and maintained appropriately.

## 13 Further Information

- 13.1 All the documents referred to in this Code of Conduct are available on the Council's intranet and you must familiarise yourself with these documents. The list below does not necessarily represent a full and complete list of relevant documents. It will be reviewed and updated as required, but employees are required to consider any relevant policies and procedures that may impact on this Code of Conduct.
- 13.2 Should you have any queries regarding these documents, please refer them to your line manager in the first instance. Further clarification can then be sought from the relevant service area:

Document	Contact	Access to document via
Anti-Fraud and Anti-Corruption Strategy and Guidance Notes	Audit and Review	SharePoint
Business Dealings with Personal Associates and Declarations of Interest	HR	SharePoint
Care and Use of Council Owned Equipment Policy	HR	SharePoint
Equality and Diversity Policy	Strategy & Performance	SharePoint
Constitution	Monitoring Officer	Website
Contract Standing Orders	Procurement	Constitution Part 8 A
Media Protocol	Communications & Marketing	SharePoint
Corporate Health and Safety Policy	HR – H&S	SharePoint
Data Protection Policy	RBWM Data Protection Officer	SharePoint
Dignity at Work	HR	SharePoint

<b>Document</b>	<b>Contact</b>	<b>Access to document via</b>
Disciplinary Policy and Procedure	HR	SharePoint
Expenses Policy	HR	SharePoint
Financial Regulations	Accountancy	SharePoint
Freedom of Information	Information Governance	SharePoint
Media Protocol (Appendix to Communications Strategy)	Communications & Marketing	SharePoint
Officers speaking at conferences – guidance	HR	SharePoint
Politically Restricted Posts	HR	SharePoint
Private Work and Conduct	HR	SharePoint
Procurement Strategy and associated documents	Procurement	SharePoint
Raising Concerns at Work (Whistle Blowing policy)	Audit and Review or HR	SharePoint
Recruitment and Selection Code of Practice	HR	SharePoint
Information Security Policy	Information Governance	Service area
Physical Security Policy		
IT Access Security Policy	Information Governance	Service area
Remote Working Policy	Information Governance	Service area
Use of Internet Policy	Information Governance	Service area
Use of E mail Policy	Information Governance	Service area

13.3 Should you have any queries regarding this Code, please refer these to your Line Manager in the first instance, and any further clarification, if needed, can be sought from HR.

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# **PART 7 - THE CODES, PROTOCOLS AND ADVICE**

## **D – MEMBER / OFFICER PROTOCOL**

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## **1 INTRODUCTION**

- 1.1 Mutual respect, understanding and co-operation between Councillors and Officers are the greatest safeguard of the integrity of the Council. They also provide a framework within which Councillors and Officers can work together for the benefit of the Royal Borough and the people who live or work here. The purpose of this guidance is to assist Councillors and Officers of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this guidance does not seek to be either prescriptive or comprehensive. It seeks simply to offer advice on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues specifically raised in the guidance will serve as a guide to dealing with circumstances as they arise.
- 1.3 This guidance seeks to promote greater clarity and to reflect changes that the new modernising agenda has developed, it also aims to ensure all Councillors receive objective and impartial advice whilst protecting Officers from accusations of bias and any undue influence from Councillors.
- 1.4 It also seeks to reflect the principles underlying the Codes of Conduct. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Code of Conduct, therefore demand very high standards of personal conduct.
- 1.5 In any dealings between Councillors and Officers both should observe reasonable standards of courtesy and neither party should seek to take unfair advantage of their position.

## **2 OFFICER ADVICE TO COUNCILLORS**

- 2.1 Officers are available to assist and advise all Councillors upon matters relating to the Council's business. Unless otherwise agreed, Officers and Councillors will treat such discussions as confidential and Officers will not reveal the contents to other Councillors or to third parties. It may be necessary however for the Officer to advise his/her Head of Service/Director of the discussions.
- 2.2 When Councillors seek assistance and advice from Officers they should adhere to the requirements of this protocol and should not seek information to which they are not properly entitled.
- 2.3 Whilst any Councillor may ask a relevant Head of Service, Director or the Chief Executive for written factual information about a service, such requests must be reasonable. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer) or if the recipient of any request considers the cost of

providing the information requested or the nature of the request to be unreasonable. If that is the case, she/he will raise the matter with the relevant Director who will discuss the issue with the relevant Group Leader(s) or, in the absence of a Group Leader, with the Member concerned.

- 2.4 Where a Councillor requests factual information (usually written) from an Officer as set out in paragraph 2.3 above, that information will also be supplied to the Chairman of the appropriate Panel, Forum or Committee, or the relevant Cabinet Member of the Cabinet, and relevant Officers
- 2.5 Where a Councillor requests policy advice (usually oral) that advice will not be supplied to any other Councillor without the consent of the requesting Councillor.
- 2.6 When advice is requested for a Member or Political Group by the Group's Political Assistant, these rules apply as if the Group Assistant was a Councillor.

### **3 OFFICER ADVICE TO POLITICAL GROUPS**

- 3.1 In discharging their duties and responsibilities, Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Councillor of the Council.
- 3.2 It is common practice for political 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 but must at all times maintain political neutrality. All Officers shall, in their dealings with political groups and individual Councillors treat them in a fair and even-handed manner.
- 3.3 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman, Cabinet Member or Spokesperson prior to a meeting to a presentation to a full party Group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups. When attending a group meeting the following protocol applies:
  - a) Officers will attend Group meetings subject to other commitments, to provide advice and information, but their attendance should not be compulsory. Officers cannot insist upon being present if the Group decides otherwise.
  - ii) The Group should decide at what point during the meeting an Officer should be requested to leave, always recognising that an Officer should not be present during discussions on subjects which could prejudice his/her political neutrality.



- iii) Having accepted an invitation to attend a meeting of one Group, Officers should not decline an invitation to offer advice or information to another Group on the same subject matter.
- iv) All invitations to attend Group meetings should be made to the appropriate Director accepting that he may nominate another Officer to attend on his behalf.
- v) Advice given by Officers at Group meetings will be either of a factual, informative nature or based on their professional expertise.
- vi) If an Officer is asked to give advice and information to more than one Group on the same issue, each Group will be entitled to receive from the Officer the same advice and information.
- vii) Officers, when questioned by Members of a Group, should not disclose or be asked to disclose the views expressed at a meeting of any other Group except to ensure that action is taken on a particular matter, if appropriate.
- viii) Councillors should not identify in public, at Council, Cabinet, Forum or Panel meetings, or in communication with the media, Officers who have provided advice and information at Group meetings.
- vix) If the proceedings of the Group meeting attended by an Officer are recorded in minute or note form, the Officer concerned should be given the opportunity of verifying those records insofar as they relate to the advice or information he gave.

3.4 All those participating in this type of process, Councillors and Officers alike, will understand that the following limits apply:-

- i) Officer support 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.
- ii) Party Group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- iii) Similarly, where Officers provide information and advice to a party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Cabinet, Panel, Forum or Council meeting when the matter in question is considered.

3.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party Group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests 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 Councillor only meeting.
- 3.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 3.7 In relation to budget proposals:
- a) The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Cabinet/Committee/Forum/Panel/ Council meetings, (if appropriate) whichever is the earlier; and
  - b) The Opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Cabinet/Committee/Forum/Panel/ Council meetings, whichever is the earlier.
- 3.8 It must not be assumed by any party group or Councillor that any Officer is supportive of any policy or strategy developed because of that Officer's provision of information or advice in the formulation of that policy or strategy.
- 3.9 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

#### **4 WARD-BASED INVOLVEMENT**

- 4.1 Information regarding activities in a particular ward should, when appropriate, be copied to the Ward Councillor(s) for information. Ward Councillors should be invited to take part in or attend any public meeting, consultative exercise or launch event organised by the Council concerning a local issue. If an Officer calls a meeting upon a local issue with or including Ward Councillors, the Officer will invite all Members for the Ward in question.
- 4.2 If a Ward Councillor calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the request will be referred to the relevant Director to determine whether an Officer in attendance is appropriate.
- 4.3 Similarly if an MP calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the same procedure will govern the Officer(s) attendance as in 4.2 above.

- 4.4 Meetings with Ward Councillors and/or MPs and/or others are generally private. Officers may confirm the events which occurred at the meeting and the outcome of it with the Members who attended, but will not reveal those matters to other Members or to other political groups except with the specific authority of the Member(s) who attended or called the meeting.

## **5 OFFICER SUPPORT TO THE OVERVIEW AND SCRUTINY PROCESS**

- 5.1 The Council's Overview and Scrutiny Panels will be supported by a named Officer as the Scrutiny Officer. In addition other Officers may attend Panels to give advice. The Scrutiny Officer will be responsible for ensuring the preparation of reports is undertaken as required by the Panels, in consultation with other relevant Officers, the Head of Governance, the Chief Finance Officer, the Overview and Scrutiny Chairmen and the Chief Executive.
- 5.2 The Chief Executive, the Monitoring Officer and the Chief Finance Officer and the Directors may attend any Committee, Forum or Panel meeting and will attend where required to do so.
- 5.3 The Overview and Scrutiny Panels are independent from the Council's executive so that information requested by an Overview and Scrutiny Panel and work undertaken for them by Officers should not be discussed with any Members not part of the relevant Overview and Scrutiny Panel until the reports become public documents. Any conflict that the Panel's Senior Officer or Support Officers may identify between the work for the Overview and Scrutiny Panel and other work undertaken for the Council should be referred to the Head of Governance who will discuss such issues, as necessary, with the relevant Overview and Scrutiny Panel Chairmen and the Director.

## **6 SUPPORT SERVICES TO COUNCILLORS AND PARTY GROUPS**

- 6.1 The only basis on which the Council can lawfully provide support services (e.g. office accommodation, stationery, typing, printing, photocopying, transport etc) to Councillors is to assist them in discharging their role as Councillors to 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. In the event that any items, such as telephones, fax machines or computers, provided for Councillors are used by them other than for Council business, the cost of such use (provided that it can be separately identified) must be reimbursed to the Council.

## **7 COUNCILLORS' ACCESS TO INFORMATION AND COUNCIL**

## DOCUMENTS

The Access to Information Procedure Rules (Part 8E) set out the rights of Councillors to Council Information.

- 7.1 Councillors are free to approach any Officer of the Council to ask for information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their roles as Councillors of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Director/Head of Service. In cases of doubt, Councillors should approach the Head of Governance.
- 7.2 As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law and the statutory position set out is in the Access to Information Procedure Rules (Part 8E).
- 7.3 The common law right of Councillors is much broader and is based on the principle that any Councillor has a right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Councillor properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.
- 7.4 The exercise of this common law right depends therefore, upon an individual Councillor being able to demonstrate that he/she has the necessary "need to know". In this respect a Councillor has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Head of Service whose Service holds the document in question (with advice from the Monitoring Officer if required).
- 7.5 In some circumstances (e.g. a Panel Member wishing to inspect a document relating to the business of that Panel) a Councillor's "need to know" will normally be presumed. In other circumstances (e.g. a Councillor wishing to inspect documents which contain personal information about third parties) the Councillor will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible to Councillors or are accessible only to the political group forming the Administration and not by other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Cabinet and Panel reports, the disclosure of which prematurely might be against the Council's and the public interest.

7.6 Whilst the term “Council document” is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Councillor of one party group will not have a “need to know” and therefore, a right to inspect a document which forms part of the internal workings of another party group.

7.7 Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor’s duties as a Member of the Council.

There is a specific requirement in the Code of Conduct which states the Monitoring Officer’s advice should be sought as to whether the criteria below apply.

You must not:

- a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
  - i) you have the consent of a person authorised to give it
  - ii) you are required by law to do so;
  - iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - iv) the disclosure is:
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the authority; or
    - (c) prevent another person from gaining access to information to which that person is entitled by law.

7.8 The provision of personal data which would breach the Data Protection Act must not be provided to Councillors unless the data subject has given written authority for the disclosure to be made.

7.9 The ‘need to know’ basis and the preservation of personal information are the guiding principles when dealing with oral or telephone requests in direct conversation. It is proper for an Officer to ask a Councillor to justify the reason for his/her request and if the Officer does not think it is sufficient the matter will be referred to the Proper Officer).

7.10 If a Councillor purports to represent a constituent and seeks information about that person’s circumstances, details should not be provided unless the constituent has given prior authority.

7.11 An Officer should not disclose to a Councillor information which is not in the public domain and which the Councillor does not need to know in order to carry out his/her duties as a Councillor.

- 7.12 In addition to the rights that Councillors have to access Council information set out above, they also enjoy the same rights to access information as any member of the general public under the Freedom of Information Act 2000. Further information about those rights and how to exercise them is available on the Council's website or from the Data Protection Officer (dpa@rbwm.gov.uk), or from the Monitoring Officer.

## **8 OFFICER/COUNCILLOR RELATIONSHIPS**

- 8.1 Whilst there will necessarily be a close working relationship between the Leader of the Council, Cabinet Members, Chairmen of Forums, Panels and Committees and the relevant Directors, Heads of Service and other senior officers, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with the other Members and other political groups.
- 8.2 In some situations an Officer will be under a professional duty to submit a report, in their name such as reports by the Council's statutory officers. Similarly, a Director or Head of Service will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This applies equally to joint Officer reports.
- 8.3 Reports submitted in the name of one or more Members, usually Cabinet Members, will be the responsibility of the Member(s) under whose name(s) it appears. It is the duty of the Member(s) to ensure that a report has been prepared, taking into account the professional advice of relevant officers and in particular the advice of the relevant Director and Head of Service for the service area and that the necessary legal and financial advice has been obtained in all cases from the appropriate officers. Depending on the subject matter of the report, such other specialist officer advice as is relevant must be obtained. The final report and its recommendation(s) will be the responsibility of the Member(s) submitting it.
- 8.4 Finally, it must be remembered that Officers are accountable to their Head of Service and Directors and that whilst Officers should always seek to assist a Cabinet Member, Chairman (or indeed any Councillor), they must not in so doing go beyond the bounds of whatever authority they have been given by their Head of Service.

## **9 PUBLICITY AND DEALING WITH THE MEDIA**

- 9.1 In line with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity, Council

publications and other publicity material produced by the Council will not normally feature individual Councillors (except the Cabinet Member for the relevant service area, the Committee, Forum or Panel Chairman (if appropriate) and the Mayor and Deputy Mayor, beyond providing a list of names and addresses.

- 9.2 The Council has a policy of allowing media access to a wide range of Officers to provide them with the factual information they need. Requests for comments or opinion on Council policy or political matters shall be referred to the appropriate Cabinet Member or Committee, Forum or Panel Chairman. The names of Group Spokespersons and Ward Councillors shall be publicly available.
- 9.3 Press releases may quote the appropriate Cabinet Member, Committee, Forum or Panel Chairman. Group Spokespersons and Ward Councillors shall be made known to journalists for contact at their discretion. The Council may issue press releases on behalf of Cabinet Members but will not otherwise issue press releases, letters to the editor etc. on behalf of Councillors though Officers will be available as in Paragraph 3.1 above to provide information which a Councillor needs for their own correspondence with media.

## **10 CORRESPONDENCE**

- 10.1 Correspondence between an Officer and a Councillor shall not normally be copied by the Officer to any other Councillor(s). Where exceptionally it is necessary that it is copied to another Councillor(s) this should be made clear to the original recipient. 'Silent copies' should not be used.
- 10.2 Letters on behalf of the Council will normally be sent out under the name of the appropriate Officer, not the name of the Councillor. It may be appropriate in some circumstances for a letter to appear in the name of a Councillor (e.g. letters of representation to the Government Members, letters from Cabinet Members), but this is likely to be the exception. Letters creating obligations or giving instructions on behalf of the Council should never be sent out in a Councillor's name.
- 10.3 In most cases it will be inappropriate for Officers to become involved in public debates or issues affecting the Council, unless they are authorised to do so. Officers should generally not make public comment on any issues of policy or on political matters affecting the Council and this would include becoming involved in correspondence with persons or making any comment publicly including the press, on matters otherwise than in the course of their normal professional activities. If any Officer wishes to make any such comment verbally, in writing or by any other method, they shall first obtain the consent of their Head of Service.

## **11 COMPLAINTS AGAINST OFFICERS**

- 11.1 Where a Councillor has concerns about the conduct or capacity of an Officer, this should be raised initially with the Officer's Head of Service and then with the relevant Director or the Chief Executive. Special rules apply to the Head of Paid Service, the Monitoring Officer and the Head of Finance. It is not appropriate for such matters to be raised at public meetings and at meetings chaired by Councillors. The Chairman will ensure that this procedure is followed. This does not prevent Members raising general concerns about service standards which are not directed at any particular Officer.
- 11.2 If a Councillor feels that he/she is not being treated with proper respect and courtesy or has any concern about the conduct or capability of an Officer which the Councillor has failed to resolve directly with the Officer, the procedure set out above should be followed. Any action taken against an Officer in respect of a complaint will be in accordance with the Council's Disciplinary Rules and Procedures.
- 11.3 Officers are expected to behave towards Councillors in a way that is politically neutral and many officers occupy politically restricted posts. Officers are not expected to comment in public on any Council Policy or activity other than a matter on which they are authorised by making public statements on behalf of the Council. Public statements include verbal comment and written statements in letters and other publications. It is therefore inappropriate and may be treated as a breach of contract for an Officer, not authorised to do so, publicly commenting on a Council Policy, procedure or activity.
- 11.4 There is the potential for complaints or allegations to be made to Councillors against Officers in a variety of situations. Such complaints and allegations can be extremely damaging to the Council and to the Officers involved. They can easily be made, particularly in respect of Officers carrying out their duties on behalf of the Council, to make sure that public funds are being managed responsibly and/or that legal requirements are being complied with, but can be very difficult to correct in the wider public arena. If not managed correctly, they can leave the Council open to legal challenge as well as causing considerable adverse impact on staff morale and effectiveness and great personal distress to the individuals involved and their families. Ill-founded and malicious allegations can tarnish Officers' careers and their livelihoods and also impact on the reputation and credibility of the Council. At the same time, it should be recognised that complaints and allegations must be handled on their individual merits, in accordance with a recognised process that is transparent, prompt and reaches unequivocal conclusions.
- 11.5 Where a Councillor receives a verbal complaint about an Officer of the Council she/he should inform the complainants that the complaint must be made in writing to the Chief Executive and that, in the absence of a written complaint, no further action will be taken.



- 11.6 Where a complaint is made directly or indirectly about an Officer of the Council at a meeting attended by Members of the Council and members of the public and/or other organisations, Councillors present should adopt the following procedure:-
- a) Immediately acknowledge the complaint and inform the complainant that the Council supports its Officers in the work they have undertaken;
  - b) Inform the complainant that any complaint should be made in writing to the Officer concerned or their Head of Service/Director where it will be considered under the Council's Complaints' Policy concerned and/or the Chief Executive (preferably within 24 hours) and that, in the absence of a written complaint, no further action will be taken;
  - c) Remind the complainant of the potential legal implications of defamatory allegations;
  - d) In the event that the complainant is a member of the management of an organisation represented at the meeting, request the submission of a complaint on behalf of the organisation rather than on the part of the individual complainant alone.
- 11.7 Complaints will be considered in accordance with the Council's HR Policies and its Anti-Fraud and Corruption Policy and Whistleblowing Policy.

## **12. COMPLAINTS AGAINST COUNCILLORS**

- 12.1 In the same manner as for complaints about Officers, complaints about Councillors can be extremely damaging to the Council and the Councillor concerned. If not managed correctly they can leave the Council open to legal challenge and can cause great personal distress. Each complaint must be handled on its individual merits and in accordance with a recognised process which is transparent, prompt and reaches unequivocal conclusions.
- 12.2 Where an Officer feels that s/he has not been properly treated with respect and courtesy s/he should raise the matter with his/her Head of Service, especially if s/he does not feel able to discuss it directly with the Councillor concerned. In these circumstances the Head of Service, Director or Chief Executive will take appropriate action either by approaching the individual Councillor and/or group leader.
- 12.3 Where an Officer receives a verbal complaint about a Councillor of the Council she/he should inform the complainants that the complaint must be made in writing to the Councillor concerned and/or to the Chief Executive and that, in the absence of a written complaint, no further action will be taken.

- 12.4 Where a complaint is made directly or indirectly about a Councillor of the Council at a meeting attended by Officers and members of the public and/or other organisations, Officers present should adopt the following procedure:-
- a) Immediately acknowledge the complaint;
  - b) Inform the complainant that any complaint should be made in writing to the Councillor concerned and/or the Chief Executive (preferably within 24 hours) and that, in the absence of a written complaint, no further action will be taken.
  - c) Remind the complainant of the potential legal implications of defamatory allegations;
  - d) In the event that the complainant is a member of the management of an organisation represented at the meeting, request the submission of a complaint on behalf of the organisation rather than on the part of the individual complainant alone.
- 12.5 Complaints about Councillors will be considered by the Monitoring Officer against the Council's Members' Code of Conduct. Complaints will also be considered in accordance with the Council's Anti-Fraud and Corruption Policy and its Whistleblowing Policy.

# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **E – ADVICE TO MEMBERS - DUTIES ON OUTSIDE BODIES**

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## 1. General duties

In general, Members who are appointed to charities, community associations or other third sector bodies (whether incorporated or not) should:

- (a) understand clearly the organisation's purposes and main objectives and their own role in the organisation;
- (b) attend meetings regularly and take an active, informed and supportive role in the body's affairs;
- (c) take care always to act in the best interests of the organisation and in accordance with its rules or governing document, while contributing their knowledge and experience as a councillor;
- (d) satisfy themselves that the organisation has transparent governance arrangements, regular reports on its activities and sound financial management, with accounts regularly monitored; and that annual reports and accounts are submitted in timely fashion;
- (e) seek to protect the body's assets and manage its affairs prudently;
- (f) be aware of the main risks the body faces (including funding risks) and the steps to be taken to deal with them;
- (g) ensure it maintains its membership, so that the work of running the organisation and any financial obligations continue to be shared by a reasonable number of people;
- (h) behave ethically in accordance with the organisation's own code of conduct, if they have one, or otherwise the Council's Members' Code of Conduct;
- (i) not gain or seek to gain from their appointment any benefit or remuneration (beyond any travel or other allowances formally approved by the body);
- (j) ensure the organisation has appropriate health and safety and equal opportunities policies and adequate insurance arrangements;
- (k) seek to safeguard the Council's interests on those bodies which are funded by or through the Council, to the extent that this does not conflict with their duties towards the organisation; and
- (l) seek advice from the Monitoring Officer or other relevant Council officer if they have concerns about the running of the body.

## 2. Charitable trusts

To be a Charity, an organisation must operate for one of the four charitable purposes, namely:

- the relief of poverty and human suffering;
- the advancement of education;
- the advancement of religion; and
- another purpose for the benefit of the community.

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

Trustees' duties include:

- the need to act in accordance with the constitution of the Charity;

- not making a private profit from their position;
- acting honestly and in good faith in the best interests of the Charity;
- ensuring that information relating to the charity and trustees is registered with the Charity Commissioners and annual accounts, reports and returns are completed and sent;
- ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the Trust;
- ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters);

There is now a statutory duty of care under the Trustee Act 2000 which applies when a Trustee is:

- exercising a general power of investment or any specific power of investment arising from the Trust;
- making investments in line with the Standard Investment Criteria under s. 4 of the Act or taking independent advice on investments under s. 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;
- compounding liabilities under section 15 of the Trustee Act 1925;
- insuring Trust property; and
- dealing with reversionary interests, valuations or audits.

The standards of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual.

The Charity Commission have stated they require independence of decision-making.

### **3. Council Owned Companies**

The Council also owns a number of companies incorporated under the Companies Act 2006. These are owned solely or jointly with other parties. A member may be appointed to act as a director of the company.

Each company will have a constitution which will state the powers and responsibilities of the director and Councillors will need to ensure they understand the limits of their powers whilst acting as a director. The CA2006 also imposes many express duties (such as requirements to deliver accounts) but s171-s177 of the Act includes a number of general duties that bind a director in relation to any action and includes the duty:

- To act within powers.
- To promote the success of the company.
- To exercise independent judgment.
- To exercise reasonable care, skill and diligence.
- To avoid conflicts of interest.
- Not to accept benefits from third parties.

- To declare an interest in a proposed transaction or arrangement.

In particular a Member would need to consider the potential for conflict between in relation to any Director action they take that benefits a company at the expense of the Council (or vice versa).

#### **4. Conflicts of Interests**

Under the Council's Members' Code of Conduct, a Prejudicial Interest always arises from membership of an outside body "of which you are a member or in a position of general control or management", including one to which a Member has been appointed or nominated by the Council. This interest needs to be recorded in the Register of Members' Interests and declared at any meeting where the business relates to or is likely to affect that body, although it does not impede full participation in the Council's meeting.

Members appointed by the Council to an outside body will, when sitting on that body, often have duties to the organisation which take precedence over their duties to the Council. This will depend on the type of organisation on which they serve – with regard to a Trust, the Member will have an overriding duty to act in the best interests of the Charity. Members will therefore wish to consider, at any time when it appears that the organisation's interests may conflict with the Council's interests, whether that conflict prevents them from taking part in decision-making either at the organisation's meeting or at the Council's meeting. Members may of course bring to bear their own experience and knowledge as a councillor, and may have regard to the Council's interests, but have a duty to exercise independent judgement when making decisions. Members should not claim to act or give the impression that they are acting under a Council mandate.

In the event of a clear conflict of interests, the Member should consider whether it is (a) minor or occasional enough that it can be dealt with by declaring an interest and withdrawing from either the organisation's meeting or the Council's meeting, or (b) so frequent or significant that it prevents the Member from effectively fulfilling their responsibilities towards the outside body, in which case resignation from the body may need to be considered. Conflicts of interest are likely to be more acute for Executive Members, particularly where the financial position of the outside body is under consideration and the body depends on the

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## **PART 7 – THE CONSTITUTION**

### **F – PROTOCOL FOR PUBLIC SPEAKING AT MEETINGS**

## 1. Public Speaking at Development Management Area Committee Meetings

- 1.1 Planning applications are determined by either an Area Development Management Committee or officers acting under delegated authority.
- 1.2 Each application is subject to a public consultation exercise which enables the public and other bodies to comment in writing on the application before it is determined.
- 1.3 The Council provides the opportunity for the public and for applicants (or their agents) to speak at the planning meeting before the Development Management Committee makes their decision.
- 1.4 If objectors speak at the meeting, the applicant must be allowed to speak provided they have notified Democratic Services of their intention (or provided the Chairman has used his discretion to allow speaking in the absence of notification to Democratic Services). An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant is in agreement with the Officers' recommendations to the Committee the Chairman will request the applicant to restrict any comments to matters not covered, or not covered fully, in the Officer's Report).
- 1.5 Anyone who has written to the Council with representations on a planning application will be contacted by the planning department at least one week before the relevant meeting is due to take place when the application will be considered. They will be invited to tell the Council if they wish to speak at the meeting.

### Notification to Democratic Services

- 1.6 If anyone does wish to speak they must register with Democratic Services by 12pm, 2 working days before the Development Management Area Committee (i.e. Monday, 12pm, if the Committee is on Wednesday). Democratic Services are unable to register speakers until the relevant planning application is listed in a published agenda. Registered speakers should provide a copy of their proposed representations prior to the start of the meeting to allow their representation to be read in the event of any technical failure or unavoidable delay in attending the meeting.
- 1.7 The Committee Chairman will not normally allow applicants, the public, any other members of the public (or their respective agents) to speak if they have failed to notify the Council as stated above, of their wish to speak.

### Speeches to the Development Management Committee

- 1.8 Generally, applications where the public are to speak will be moved to the start of the agenda, at the discretion of the Chairman.
- 1.9 No new documents should be circulated to the Committee at the meeting except the Committee Update prepared by officers. The Committee Update will contain information pertinent to the application provided to the case officer after the Committee report publication date and up to 5pm of the working day before the date of the Committee meeting. It shall be at the discretion of the planning officer if any further updates are to be accepted after this point. Messages should not be passed to individual Committee Members.
- 1.10 Only one public speaker will be allowed to speak against an application. They will be given, a total of **three (3) minutes** in which they can present their views. They must register their intention to speak with Democratic Services by 12pm, 2 working days

before the Development Management Area Committee (i.e. Monday, 12pm, if the Committee is on Wednesday). Democratic Services are unable to register speakers until the relevant planning application is listed in a published agenda. If there are multiple people wishing to express opposition to an application, they must nominate a single spokesperson. If a single spokesperson is not nominated only the first person to register will be allowed to speak.

- 1.11 If a Parish or Town Council, has made representations, and a member of that organisation wishes to address the meeting, they must register their intention to speak with Democratic Services by 12pm, 2 working days before the Development Management Area Committee (i.e. Monday, 12pm, if the Committee is on Wednesday). Democratic Services are unable to register speakers until the relevant planning application is listed in a published agenda. The Committee Chairman will not normally allow a member of the organisation to speak if they have failed to notify the Council as stated above, of their wish to speak.
- 1.12 A Parish or Town Council representative will be allotted a total of **three (3) minutes in which they can present their views**.. If more than one Parish or Town Council wishes to address the meeting they should nominate a single spokesperson for all organisations no additional time will be allocated unless exceptional circumstances apply (see below).
- 1.13 The applicant, their agent or any member of the public wishing to support an application will be allocated, in total **three (3) minutes** in which to present their views. They must register their intention to speak with Democratic Services by 12pm, 2 working days before the Development Management Area Committee (i.e. Monday, 12pm, if the Committee is on Wednesday). Democratic Services are unable to register speakers until the relevant planning application is listed in a published agenda. Only a single spokesperson will be allowed to speak in support of an application, as such should a member of the public wish to speak they are encouraged to contact the applicant or their agent. If a single spokesperson is not nominated only the application or their agent will be allowed to speak.
- 1.14 Any Member of the Council, not already a Member of the Committee, wishing to speak at a meeting will be permitted to speak in favour or against any agenda item after all public speakers have spoken and prior to the Committee debating the item. Non Committee Members will be restricted to **three (3) minutes** each in total. Non Committee Members must register their intention to speak with Democratic Services by 12pm, 2 working days before the Development Management Area Committee (i.e. Monday, 12pm, if the Committee is on Wednesday). Democratic Services are unable to register speakers until the relevant planning application is listed in a published agenda.
- 1.15 The Chairman of the meeting has discretion to extend the speaking time for any party, in exceptional cases. This discretion is intended to be applied only rarely. Exceptional circumstances might arise as a result of the range of issues raised by the matter. Where the Chairman has extended speaking time for any one party, then the time shall be extended by a similar amount for any other party.
- 1.16 Where any circumstances prevent a party from attending the meeting or being able to present for their full allotted time the Committee shall continue to consider and determine the application having regard to the written copy of their representation if

one has been submitted to Democratic Services in advance of the meeting as detailed in paragraph 1.6 above.

## **2. Public Speaking at Cabinet.**

Please see Part 3 A2.8 of the Constitution.

## **3. Public Speaking at Council.**

Please see Part 2 C9 of the Constitution.

## **4. Public speaking at other Committees, Forums and Panels**

- 4.1 This Protocol sets out how members of the public can take part in many Council meetings, including meetings of most Committees, Forums and Panels. As set out above there are separate provisions for the public to ask questions at meetings of the Council (Part 2 C9); Cabinet (Part 3 A2.8) and speaking at Development Management Panels (covered in the preceding section).
- 4.2 The operation of this Protocol will be the responsibility of individual Chairmen and may need to be revised from time to time, or disapplied in particular circumstances.
- 4.3 Members of the public cannot attend meetings when confidential or exempt items are being discussed.
- 4.4 This Protocol will not apply to appeal or other quasi-judicial hearings, such as most Appeals Panels.
- 4.5 Any members of the public wishing to speak may only do so in relation to an item on the agenda of the meeting. The Council wishes to provide the opportunity for the public to speak at the meeting before the Members take their decision but the Chairman will have the right to apply the criteria to restrict public questions or participation if he feels it necessary to do so for the better conduct of the meeting.
- 4.6 If the matter is one where there are applicants or supporters of a proposal speaking, objectors must be allowed to speak at the meeting, and vice versa. An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant or objector is in agreement with the Officers' recommendations to the Panel Forum or Committee, the Chairman will request the applicant or objector to restrict any comments to matters not covered, or not covered fully, in the Officer's Report). Members of the public may not necessarily be supporters or objectors but may wish to ask questions or make statements to Members about the item under discussion. This is permitted under the terms of the Protocol.
- 4.7 If anyone wishes to speak at a meeting, they must register with Democratic Services by 5pm, 2 working days before the meeting. If anyone wishes to use visual material, e.g. photographs, plans, etc., or present documents, these should be sent to the Council, as soon as possible, before the relevant meeting. The Chairman will not normally allow members of the public to speak if they have failed to notify the Council, as stated above, of their wish to speak.

- 4.8 In respect to any meeting that is not an ordinary committee, joint committee or subcommittee of the Council (such as non-statutory Forums) at the sole discretion of the Chairman, items may be added to the agenda and/or additional public speaking be allowed at the meeting.
- 4.9 Generally, items where the public are to speak will be moved to the start of the agenda. The individuals speaking on the item will be allowed up to a maximum of **3 minutes** to speak, with a total time for public speaking of **9 minutes** per agenda item. It may be convenient, if there are a number of members of the public that they agree amongst themselves to appoint one or two spokesmen for them all to stay within the time allotted. If the speakers are unable to agree amongst themselves, the Chairman shall share the **9 minutes** equally amongst the persons on the list recording the names of members of the public wishing to speak attending the meeting. The Chairman shall call them strictly in the order the names are recorded. When the end of the period allowed for public speakers has been reached, the Chairman will not permit any more public speakers.
- 4.10 The Chairman of the meeting has discretion to extend the speaking time for the public by up to a further **3 minutes** in exceptional cases. This discretion is intended to be applied only rarely. Exceptional circumstances might arise as a result of the range of issues raised by the matter.

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# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **G – PETITIONS PROTOCOL**

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## 1 Introduction

The Royal Borough of Windsor and Maidenhead welcomes correspondence from the public and welcomes petitions as one way in which residents can let the Council know their concerns. The scheme below sets out how the authority will respond to petitions which it receives.

## 2 What is a petition?

The Council treats as a petition any communication which is signed by a number of people who live in the Borough. For practical purposes, the Council normally sets a requirement for at least 25 signatories or petitioners before correspondence is treated as a petition, although the Petitions Officer may accept a petition containing fewer signatories if those people represent a significant proportion of people who may have a direct interest in the issue of the subject of the petition.

## 3 What should a petition contain?

A petition should include –

- A clear statement of your concerns and what you want the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;
- The name and contact details of the petition-organiser or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an e-mail address. Signatories are directed to the council's [Privacy Notice](#) in relation to the collection of personal data for petitions.
- The names of at least 25 petitioners (which can include the petition organiser) accompanied by their home address in the borough (at minimum postcode). Where the petition is in paper format, this must include actual signatures from each petitioner. Where the petition is in electronic form, this must include a valid email address for each signatory (see paragraph 13 below). Signatories are directed to the council's [Privacy Notice](#) in relation to the collection of personal data for petitions. A paper petition can be run at the same time as an electronic petition but signatories are not permitted to sign both. If you want your petition to be debated at a meeting of the Council ("A Petition for Debate"), or to trigger a public meeting of an Overview and Scrutiny Panel at which a specific officer will be

required to report (“A Petition to hold an Officer to Account”), your petition will need to contain a higher number of signatories or petitioners (see paragraphs 31 and 32 below). Where it cannot be verified that a signatory lives within the borough, the council reserves the right to exclude the signatory from the total number of signatures

4 If you are submitting the petition in response to a consultation on a specific matter, for example a planning or licensing application, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter. See paragraph 28 for further details

5 **Who should you send a petition to?**

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

6 The council’s Petitions Officer is responsible for receiving, managing and reporting all other petitions sent to the authority. Please address petitions to: –

The Petitions Officer  
Democratic Services  
Royal Borough of Windsor and Maidenhead  
Town Hall  
St Ives Road  
Maidenhead  
SL6 1RF

7 Alternatively, a Member of the Council may submit a petition to any ordinary meeting of the Full Council on behalf of petitioners. Notice of the petition must have been given to the Head of Governance not later than noon on the last working day prior to the meeting.

8 Council will set aside up to 10 minutes, which may be extended at the Mayor’s discretion, to receive Petitions under paragraph.7.

9 A Member submitting a Petition may speak for no more than 2 minutes to summarise the contents of the petition. The petition will then be referred by the Mayor, via the Petitions Officer, to the relevant Head of Service, to Cabinet, to the appropriate Cabinet Member(s) or to the relevant Committee, Forum or Panel (if any) without debate, either to consider and reach a decision on the petition’s context or to report back to the Council, as the Mayor shall determine.

10 The petitioner organiser will be invited to attend any relevant meeting to which the petition is referred or the future Council meeting to which it is reported, and will be invited to address that meeting for up to 5 minutes.

The petition will appear on the agenda for the relevant meeting immediately after the items on Apologies, confirmation of minutes and declaration of interests. This additional speaking right (above that already stipulated in this Constitution) shall not apply to a committee of Council sitting as an administrative or quasi-judicial function (such as planning or licensing).

- 11 When a Member submits a petition at a meeting of the Full Council, the Mayor, on the advice of the Petitions Officer, may reject any Petition which falls under any of the reasons for rejection as detailed in paragraph 51 below.
- 12 The Petitions Officer will ensure that all petitions are acknowledged to the petition organiser and entered on the authority's petitions log on the Borough website, and that the website is regularly updated with information on the progress of each petition. The Petitions Officer can also provide advice about how to petition the authority or the progress of a petition, at either the above address or by telephone at 07766 778286.
- 13 Petitions can be submitted to the council in electronic format via the council's e-petition website (<https://rbwm.moderngov.uk>). Such petitions will remain 'open' on the website for a set period of time, to allow other people to sign. The period of time will be agreed with the petition organiser, but will be no longer than 6 months. When an individual signs an e-petition, they will be asked to provide their name, postcode of their home address within the borough and a valid email address. . People visiting the e-petition will be able to see the name of the signatory but contact details will not be visible. Signatories are directed to the council's [Privacy Notice](#) in relation to the collection of personal data for petitions. E-petitions will not be accepted from any other e-petition website, as the council is unable to verify signatories.
- 14 **The Petitions Website**
- When a petition is received by the Petitions Officer, within 5 working days the Petitions Officer will add the details of the petition to the petition log on the borough website, including the subject matter of the petition, its date of receipt, and the name of the petition organiser/lead petitioner. Signatories are directed to the council's [Privacy Notice](#) in relation to the collection of personal data for petitions.
- 15 At each stage of the consideration of the petition, within 5 working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.
- 16 As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within 5 working days of that consideration.

**17 The role of Ward Councillors**

When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send an electronic copy of the petition to the relevant Cabinet Member and Ward Councillor(s) at the same time as acknowledging receipt of the petition to the petition organiser.

18 When the petition is considered at any Council meeting, the relevant Ward Councillor(s) will be invited to attend and to address the meeting for no more than 5 minutes each, immediately after the petition organiser.

**19 What happens when a petition is received?**

How we deal with a petition depends on which type of petition you submit. Some of the possible options are:

- Taking the action requested in the petition
- Considering the petition at a meeting of the authority
- Holding an inquiry
- Holding a public meeting
- Commissioning research
- A written response to the petition organiser setting out the authority's views on the request in the petition
- Referring the petition to an Overview and Scrutiny Panel

20 Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 as amended by the Localism Act 2011 and will be reported to the Monitoring Officer, rather than considered under this Petitions Procedure.

21 Whenever a petition is received, within 5 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.

22 If a petition is sent to any officer in the Council other than the Petitions Officer, the officer will notify the Petitions Officer of the petition so a central log of petitions may be maintained.

23 For ordinary petitions, the following process managed by the relevant Head of Service shall apply. For consultation petitions, statutory petitions, petitions for debate or petitions to hold an officer to account see paragraphs 28 – 38 below.

Where a petition is received relating to a matter which is subject to statutory consultation process (for example, during adoption of a Neighbourhood Plan) then the petition will be considered by the relevant

decision maker in accordance with the provisions of the statutory consultation and the relevant time set out in the consultation process.

If a Petition is received relating to a matter which is subject to statutory consultation process after the statutory process has concluded, then the Petition will not be accepted by the Council.

#### 24 **Petitions dealt with by Head of Service**

If a petition is submitted to a Head of Service directly, via the Petitions Officer or via Full Council, the Head of Service will be responsible for convening a meeting between the Head of Service, the Cabinet Member(s), the petition organiser(s), and Ward Councillors, to discuss the content of the petition.

25 If a mutually agreeable solution can be reached between all parties, which does not require an executive or regulatory decision, then the petition can be addressed accordingly, without the need for it to be presented to Cabinet, or any other relevant body.

26 However, if a mutually agreeable solution cannot be reached, then both parties may request that the petition be referred to the appropriate body for consideration and debate.

27 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 5 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting. This additional speaking right (above that already stipulated in this Constitution) shall not apply to a committee of Council sitting as an administrative or quasi-judicial function (such as planning or licensing).

#### 28 **What happens to a Consultation Petition?**

Consultation Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the Terms of Reference of Panels, Forums and Committees. Therefore, all petitions will be forwarded to the relevant Head of Service to deal with. Consultation petitions attracting over 1500 signatures will not be the subject of a debate by Full Council (see paragraph 30 below) unless the Full Council is the appropriate decision making body. For example, all petitions relating to a planning application will be passed to the planning Case Officer as part of the normal

consultation process and outlined in the Officer's report to a Panel and if not delegated to officers will then be considered by the relevant Development Management Panel.

29 **What happens to a Statutory Petition?**

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

30 **What happens to Petitions for Debate?**

If you want your petition to be reported to and debated at a meeting of the Full Council, it must contain at least 1500<sup>1</sup> signatories or petitioners.

31 Petitions for Debate will be reported to the next convenient meeting of Council, as determined by the Mayor. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition unless the Mayor agrees to do so. Further details on how Petitions for Debate are dealt with can be found in Part 2, paragraph C10 of the constitution.

32 As set out below, the petition organiser will be invited to address the meeting for up to 5 minutes on the subject of the petition.

33 **What happens to a Petition to Hold an Officer to Account?**

If you want your petition to be considered at a meeting of an Overview and Scrutiny Panel, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 750 signatories or petitioners. The authority has determined that such petitions must relate to the Chief Executive, a Director or a Head of Service of the authority. The grounds given in the petition for attendance at a meeting of the relevant Overview & Scrutiny Panel must relate to their job; it cannot relate to their personal circumstances or character. Where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Head of Human Resources in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.<sup>2</sup>

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<sup>1</sup> The number of signatories or petitioners required for Petitions for Debate, and for Petitions to Hold and Officer to Account have been set by the authority to try to ensure that matters of genuine concern can be brought to the authority's attention. These requirements will be reviewed periodically in the light of the number of petitions received, to ensure that the requirements are not excessive.

- 34 Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Panel, as determined by the Panel Chairman.
- 35 In advance of the Panel meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Panel, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.
- 36 At the meeting, the Chairman will invite the petition organiser to address the Panel for a maximum of 5 minutes on the issue<sup>3</sup>, and the relevant officer will then be required to report to the Panel in relation to the conduct of the subject matter of the petition. Members of the Panel may question the officer, and the Chairman may invite the petition organiser to suggest questions for him/her to put to the officer.
- 37 The Overview and Scrutiny Panel can decide that for the purposes of addressing concerns raised in a petition it is more appropriate for another officer to be called instead. The Panel may also consider it appropriate to call the relevant elected Member with responsibility for the service area in question, in addition to the appropriate senior officer.
- 38 After the relevant person has appeared before the Overview and Scrutiny Panel, the Panel must make a report or recommendations to the authority (under its existing powers) and send a copy of that report or recommendations to the petition organiser.
- 39 **At the meeting, when the matter to which the petition relates is considered –**
- Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chairman at the meeting determines otherwise<sup>4</sup>. The Chairman will determine the number of petitions that would be convenient to consider at any one meeting. A maximum of 30 minutes will be allowed to consider each petitions<sup>5</sup>. The maximum time of 30 minutes per petition can be extended at the Chairman's discretion. The 30 minutes will begin immediately after the petition organiser has spoken.
- 40 The relevant officer will include in the agenda for the meeting a report setting out the background to the issue. At the start of the item, the petition organiser will be invited to address the meeting for up to 5 minutes. The Chairman will then invite the relevant Cabinet Member to speak for up to **5 minutes**, including proposing any recommendation included in the covering report. The Chairman will then invite any

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<sup>3</sup> *No longer used*

<sup>4</sup> In practice, where one person has submitted more than one petition, his/her second petition will be taken after consideration of the first petition submitted by each other person, and so on.

<sup>5</sup> *No longer used*

relevant Ward Councillors present to address the meeting on the matter for up to 5 minutes each. The matter will then be open for debate among Members of the meeting. See Part 2 C10 for specific details of how Petitions for Debate are dealt with at full Council meetings.

41 Within 5 working days of the consideration of the petition by the relevant meeting, the Petitions Officer will notify the petition organiser of the decision.

42 At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

### 43 **Appeal to an Overview and Scrutiny Panel**

If the petition is considered by Cabinet and the petition organiser is not satisfied with the authority's response to the petition, he/she may appeal to an Overview and Scrutiny Panel by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition.

44 Within 5 working days of receipt of intention to appeal, the Petitions Officer will determine which is the relevant Overview and Scrutiny Panel and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Panel, to be determined by the Panel Chairman, and will invite the petition organiser to attend the meeting and to address the Panel for up to 3 minutes on why s/he considers that the authority's decision on the petition is inadequate.

45 At that meeting, the Overview and Scrutiny Panel will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the response was insufficient. Should the Panel determine that the authority has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to Cabinet and arranging for the matter to be considered at a meeting of the full Council.

### 46 **The role of the Petition Organiser (Lead Petitioner)**

The petition organiser will receive acknowledgement of receipt of the petition within 5 working days of its receipt by the Petitions Officer.

47 Where the petition is not accepted for consideration (see Rule 51 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

48 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.



49 The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

50 The petition organiser must notify the Petitions Officer of his/her intention to appeal to an Overview and Scrutiny Panel against the decision of the authority relating to the petition within 20 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Panel for up to 3 minutes as to why he/she considers that the authority's decision on the petition was inadequate.

51 **Petitions which will not be accepted**

- **Duplicate Petitions**

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

- **Repeat Petitions**

A petition will not be considered when it is received within 6 months of another petition being considered by the authority on the same matter, unless significant new information has been received.

- A petition will not be accepted for hosting on the council's e-petition website (to begin gathering signatures) if it is substantially similar to one hosted on the website within the last 6 months unless significant new information has been received.

- **Rejected Petitions**

Petitions will not be accepted if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous, time-wasting or otherwise inappropriate or do not relate to something which is the responsibility of the authority, or over which the authority has some influence. They will also not be accepted if they relate to something which has already been dealt with by the Council or another appropriate body or are in the process of being so dealt with. Petitions that raise issues of competence or misconduct of an officer, will be referred to the Chief Executive (or to the Head of Human Resources in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this petitions procedure. Petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 as amended by the Localism Act 2011 and will be reported to the Monitoring Officer, rather than considered under this petitions

procedure. In these instances, all petitions will be forwarded by the Petitions Officer to the appropriate department.

**PART 7 – THE CODES,  
PROTOCOLS AND ADVICE**

**H – FILMING AND RECORDING  
PROTOCOL**

## **1. Filming and Recording**

The Council supports the principle of transparency and encourages the filming, recording, and photographing of meetings open to the public. In order to balance the wishes of those who want to record the meeting and those attending the following principles will apply:

- a) Any filming/ recording/ photography must take place from positions in the meeting room agreed by the Mayor/Chairman to ensure the view of members, officers, public and media representatives is not obstructed. Those intending to bring large equipment, or wishing to discuss any special requirements, are advised to contact the Democratic Services Team in advance of the meeting to seek advice and guidance.
- b) The use of flash photography or additional lighting in connection with recording/ filming will be permitted for short periods. The point at which this happens during the meeting must be agreed with the Mayor/Chairman.
- c) If the Mayor/Chairman feels the filming/ recording/ photography is disrupting the meeting in any way, the operator of the equipment will be required to stop. Anyone undertaking filming/ recording/ photography must comply with any requests made by the Mayor/Chairman of the meeting;
- d) The person recording proceedings must agree to ensure the film/ record/ photographs will not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed/ recorded/ photographed;
- e) The responsibility for how any film or recording or photography is used rests with the person doing it, not the Council. Those filming proceedings should make themselves aware of their responsibilities under current legislation, particularly in the area of publication and seeking consent.

## **2 Preparing for the Meeting**

The Democratic Services Team will ensure signs are put in place before the meeting starts to remind attendees that filming/ recording/ photography may take place. Meeting agendas will also carry this message, and this will also be added to the Council's Agenda Meetings web page.

## **3 During the meeting**

- 3.1 Anyone seated in the public area or anyone attending the meeting to speak will have the opportunity to express his or her wish not to be filmed/ recorded/ photographed and to be guided to seating areas away from the area being filmed/ recorded/ photographed. If a member of the

public is attending to speak at the meeting and prefers not to be filmed/ recorded/ photographed their wish will take precedence.

- 3.2 At all times the wishes of those who chose not to be involved will take precedence.
- 3.3 If the Mayor/Chairman feels the filming/ recording/ photography is disrupting the meeting in any way or any pre-meeting agreement has been breached, the operator of the equipment will be required to stop.
- 3.4 If someone refuses to stop recording when requested to do so, the Mayor/Chairman will ask the person to leave the meeting. If the person recording refuses to leave then the Mayor/Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the constitution.
- 3.5 Anyone asked to leave a meeting because they have refused to comply with the Mayor's/Chairman's requests may be refused permission to film/ record/ photograph at future Council meetings.
- 3.6 The Mayor/Chairman of the meeting has a right to withdraw consent to film/ record/ photograph at any time during the meeting.

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## **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

### **I - Members' Social Media Protocol**

# MEMBERS' SOCIAL MEDIA PROTOCOL

## Purpose of this protocol:

Social media is an increasingly important means of communication for individuals and businesses. The Council welcomes Members' increasing use of social media and aims to facilitate it by providing guidance regarding what is and is not acceptable. This protocol is intended to be read alongside the Members' Code of Conduct. As Members might expect, **the fundamental principle is that the same standards of behaviour and conduct apply online as are required offline.**

## What is social media?

'Social media' is the term to describe websites and online tools which allow people to interact with each other by creating their own content, for example blogs, videos or short messages such as including tweets.

On social media sites, users may share information, discuss opinions and/or create interest groups or pages, all means of building online communities and networks which encourage participation and engagement.

For the purposes of this policy Social Media also includes other forms of electronic communications such as email and 'direct/instant messaging'.

It is not a requirement that Members must have a Facebook or Twitter account or use other forms of social media to contact their constituents. However if you are already using or planning to use social media in connection with your work as a Councillor, or are already using such media in your private capacity, these guidelines will be relevant.

## Social Media can be used;

- To support councillors in performing their community leadership role
- To keep in touch with local views and opinions
- For political campaigning
- For campaigning on local issues

## Types of Social Media:

Blogging and microblogging on online journals. Twitter is an example of microblogging, where entries are limited to 280 characters

Online Forums involve people with similar interests sharing information and opinions. Social networking sites facilitate connections between those who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example



Video and photo publishing involve sharing videos and photographs worldwide – YouTube, Instagram, Facebook and Flickr are examples. Email & messaging electronic communication usually from an individual to one or more recipients.

**Be mindful that:**

The use of social media does not impose any legal or ethical burdens additional to those which govern all of your behaviour as a councillor.

However while any form of communication is capable of being misunderstood, the rapidity and immediacy of social media exchanges can lend itself to problems.

“Misfiring”, or being misunderstood, particularly where comments are perceived as being more controversial than intended, may lead to rapid and wide broadcasting of the seemingly controversial comment.

Although social media lends itself to a conversational tone, posting comments is still publishing in the sense of creating a written record. Most pitfalls will be avoided if your online content is accurate, informative, balanced and objective.

While councillors are free to communicate politically in appropriate contexts, you should be careful not to say anything that you wouldn't be comfortable justifying at a public meeting.

Be clear when you are communicating as a Councillor as opposed to a statement made in your personal capacity. You may wish to make it clear in your profile if it is a personal account however, any statement about Council business or policy will be considered as being in your capacity as a Councillor.

**Legal issues:**

**Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against you.

**Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore do not publish anything you are unsure about, or obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.

**Data Protection** – Do not publish the personal data of individuals unless you have their express permission.

**Bias and Predetermination** – if you are involved in making planning, licensing or other quasi-judicial decisions, do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and were genuinely persuadable to a different view. If you were not, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.

**Harassment** - it is a criminal offence to repeatedly pursue a campaign against someone where this is likely to cause alarm, nuisance or distress.

**Elections and Voting** – it is a criminal offence to publish any information relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted – s66A Representation of the People Act 1983.

#### **Social Media and the Code of Conduct for Members:**

Aspects of the Members' Code of Conduct will apply to your online activity in the same way as they do to any other written or verbal communication you may engage in. The key to whether your online activity is subject to the Code is whether you are, or even just appear to be, acting in your capacity as a councillor rather than as a private individual.

Councillors can have “blurred identities”. This can happen where you have a social media account where you comment both as a councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case.

One way of avoiding blurring the lines between your personal and councillor life, and avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a councillor separate from those where you communicate in a personal capacity. This isn't a legal requirement but remains a decision for each Member and some Members may find the convenience of having one account outweighs the advantages of separate accounts. The Monitoring Officer or the Council's Communications Team can help you with more specific advice if needed.

**You must promote and support high standards of conduct** - do not use social media to make personal attacks or indulge in rude, disrespectful or

offensive comments even if you are receiving such yourself. You should also be mindful not publish anything that could reasonably be perceived as bringing yourself as a councillor, or the council in general, into disrepute, and in particular not to disclose any confidential information. While it is important that the Council conduct its business with openness, it is essential that councillors and employees are clear about what is confidential and ensure that relevant items remain confidential.

**You must comply with equality laws** – do not publish anything that might be seen as racist, sexist, disableist, ageist, homophobic or anti-faith.

**You must not bully or intimidate anyone** – do not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation, whether the comments relate to a council employee, a fellow-councillor or anyone else.

**You must not use anonymous accounts** – the public expects its elected representatives to be candid and not hide behind anonymous or proxy accounts. Where you engage with the public as a Councillor or on matters of importance affecting the Council or the Borough, then the public and the Council expects you to declare both your identity and your position as a Councillor.

### **Staying out of Trouble - Some Do's and Don'ts**

#### **Some Do's**

- set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views
- be aware that the higher your profile as an elected Member, the more likely it is you will be seen as acting in your official capacity when you blog or network
- consider keeping your personal and elected Member profile on social networking sites separate as a means of maintaining appropriate professional boundaries and clarity when you are commenting in a personal or councillor capacity.
- ensure you use council facilities appropriately; if you use a council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity
- be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected Member
- be mindful of the potential for misunderstanding and miscommunication.

feel able to make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine comments on policy are less likely to be viewed as disrespect.

### **Some Don'ts**

Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you are tired or have consumed alcohol

make unguarded statements which could lead to potential liability, or fail to take care when reporting or copying the comments of others

post comments that you would not be prepared to make on paper or face to face

use council facilities for personal or political blogs

request or accept a Royal Borough of Windsor & Maidenhead Council employee or contractor providing services to the council as a "friend" on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)

use social media in any way to attack, insult, abuse, defame or otherwise make offensive or discriminatory comments about council staff, service users, their family or friends, colleagues, other professionals, other organisations, or the council

publish confidential or exempt information that you may have learned or had access to as part of your role as an elected Member. This includes personal information about service users, their families or friends or others e.g. contractors and council staff.

Council related information: do not represent your personal views, or those of any political party or interest group you belong to, as being those of the council, on any social medium

browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory

### **Use of social media and mobile devices at meetings:**

Use mobile devices sparingly, discreetly and with common sense at meetings, for any matter that is not part of the agenda, being mindful of the impression you may be giving to others of proceedings.

There may be occasions when texting or emailing between Councillors during meetings on matters relevant to the debate at hand may be valuable on the same basis as circulating paper notes to other Councillors. Mobile devices also enable Councillors to

manage their busy lives when time is at a premium. However frequent use of these devices during meetings other than for accessing agenda paperwork in electronic format may give the public the impression that the councillor is not paying full attention to an item that is being discussed in a debate on a decision that is to be made.

Examples of the acceptable use of devices:

- reading and annotating meeting papers and background information relevant to that meeting;
- communicating with others at the meeting on matters relevant to the debate at hand; and
- sending and receiving urgent communications to/from home relating to domestic circumstances (e.g. childcare arrangements)

Avoid the following:

- using social media during quasi-judicial meetings or during the consideration of confidential or exempt items of business at meetings; and
- frequently checking emails and messages that are not related to the meeting; and
- extended periods of use which may suggest that insufficient attention is being paid to the meeting.

The Council wishes to encourage Members to use social media where doing so may assist you in performing your function. This guidance is intended to help Members avoid the legal and reputational risks inherent in this mode of communication. The Monitoring Officer and the Communications Team are happy to help Members by providing additional advice and guidance as appropriate. Training is also available to individual Members or Groups on the use of social media.

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# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **J - Partnership Protocol**

## PRINCIPLES OF PARTNERSHIP WORKING

### 1.1 Introduction

Partnership working is playing an increasingly important role in the future of service delivery for the public sector. Partnerships can bring significant benefits, providing flexibility, innovation and additional financial and human capital resources to enhance service delivery to the community. However, partnerships also bring risks. Working across organisational boundaries potentially brings complexity and ambiguity that can generate confusion and weaken accountability. Residents need assurances that public money is spent wisely in partnerships and it should be confident that their quality of life will improve as a result of this form of working.

If planned and developed properly, partnership working can bring the following significant benefits to the delivery of services:

- a) **Greater impact** – Increased benefits for residents and businesses; greater critical mass – ability to reach and deliver beyond capabilities of any one partner.
- b) **More resources** - Able to attract funding where policy requires partnership bids and evidence of partner ability to deliver joint projects (not available to single organisations); strengthened negotiating power.
- c) **New and better ways of working** - Innovation: new / more effective ways of doing things; new perspectives and challenging views within the partnership; improved intelligence about needs and opportunities.
- d) **Spread risk** - Complementary strengths, resources, perspectives; greater flexibility within a team.
- e) **Reduce risk** - Pool resources; share costs of common functions.

This protocol establishes minimum standards of governance and management which the council will follow in order to ensure that its partnerships are well run and delivering the expected benefits. It outlines key requirements for initiating, approving, setting up, operating, reviewing and exiting partnership arrangements

## SECTION 1 – DEFINITION OF A PARTNERSHIP

The word partnership is used with increasing frequency across all sectors. It can mean different things to different groups.

***For the purposes of this protocol, a partnership is defined as:***

- An arrangement involving the Council and one or more other organisations, from any sector, **who share the responsibility for agreeing and then delivering a set of actions and outcomes** that improve the economic and/or social and/or environmental well-being of people living in, working in, or visiting the borough.

**This includes** partnerships where the partners:

- a) Are otherwise independent bodies.
- b) Agree to cooperate to achieve a common goal including situations where one partner receives income from the other partner.
- c) May create a new organisational structure or process to achieve their goals, separate from their own organisations.



- d) Plan and implement a jointly agreed programme, often with joint staff or resources.
- e) May pool risks and rewards.
- f) May have objects of achieving profit, in addition to delivering to the council's corporate priorities.

## **SECTION 2 - PARTNERSHIP PROTOCOL**

### **2.1 Introduction**

This protocol sets out the principles by which partnerships should be governed. The council engages in a wide variety of partnerships and these may vary in size, service area, membership and function. These principles of good partnership governance are scalable to apply to all partnerships.

This protocol aims to ensure that, in partnership working:

- a) The council is clear about the purpose of its partnerships and the expected outcomes for the people of the borough.
- b) The council's own agreed priorities and objectives are being met.
- c) There is clarity about accountability and responsibility for outcomes.
- d) Partnership activity and outcomes are monitored, reviewed and evaluated to make best use of resources.
- e) Risks for the council, and for the partnership, are assessed and agreed.
- f) Each partnership remains committed to its agreed purpose during its lifespan and has in place an effective exit strategy.

### **2.2 Applicability of the protocol**

This protocol is not applicable to:

- a) Groups where the council pays a third party to deliver one or more services on its behalf, unless the council also has control over strategic direction and significant decision making of the third party in relation to delivery of the services.
- b) Informal groups set up to discuss and consider specific topics (consultation groups).
- c) Appointments and / or financial commitments to outside bodies where the council has no strategic or policy function.
- d) Private Finance Initiatives (PFI).

### **2.3 Rationale for entering into partnerships**

The number of partnerships in which the council is involved has grown over the years in order to secure efficiencies and more recently, as a result of its move to a 'commissioning council' operating model where significant services and functions are delivered by partners on behalf of the Council.

The council has chosen to form or join partnerships for a number of reasons, including:

- a) To deliver coordinated packages of services to residents.
- b) To tackle cross-cutting issues.
- c) To respond to an identified strategic or operational issue which is too large, or multifaceted, to achieve in isolation.
- d) To reduce the impact of 'silo-working'.
- e) To maximise limited funds and / or to bid for, or gain access to, resources.
- f) To fulfil a statutory requirement.

### **2.4 Potential risks to the council of partnership working**

The council recognises the common weaknesses of some public sector partnerships and in its partnership working, works to avoid:

- a) Failure of the partners to understand the extent of their involvement in partnerships, or their implications, including their financial and legal liabilities.
- b) The partnership operating in isolation, duplicating effort and activity.
- c) Weak alignment between the partnership and the council's plans and governance.
- d) A lack of monitoring or evaluation of the effectiveness and impact of partnerships and a focus on activity, rather than outcomes.
- e) A lack of monitoring or evaluation of the contribution of partner organisations, including limited opportunities or willingness to challenge the performance of partners or give feedback on their performance.
- f) Underdeveloped arrangements for scrutiny of partnerships through council processes.
- g) Insufficient thought given to planning an exit strategy, including management of any continuing financial liabilities and the ownership and disposal of any assets.
- h) A lack of formal systems for recording conflicts of interest or for assessing the risks of funding proposals.

## **2.5 Entering into a partnership**

Before entering into any partnership, the council will give consideration to its ability to contribute effectively to the partnership. The council will be mindful of the resource implications of entering into any partnership, particularly for staff, financial and operational assets, and existing commitments. The council will ensure that the objectives of the partnership are in line with its corporate priorities, and be clear how the partnership will assist in their delivery. The council should not enter into any partnership, which requires an unbudgeted financial commitment, without seeking appropriate approval first.

Appendix 1 sets out the principal matters that the council should consider when entering into a partnership.

## **2.6 Putting arrangements in place**

Any partnership that the council enters into must be clear on its purpose and the expected outcomes. The council will ensure that all partnerships have in place robust performance management arrangements.

When entering into partnership arrangements, the council will ensure the following arrangements are in place:

- The partnership has an officer accountable for monitoring its performance.
- Performance reporting takes place in agreed time frames and to an agreed body and/or partners.
- The partnership has a sound evidence base to inform its objectives, planning and target setting in a formal business case.
- Objectives and outcomes to be delivered are formally reviewed and evaluated annually through an agreed process.
- All partners are clear on the outcomes being delivered by the partnership and the links to their own business or corporate priorities.
- Each partner ensures that their actions are embedded into organisational plans to ensure delivery and accountability.
- Agreed action plans are reviewed and refreshed annually by all partners.
- Action plans are supported by a risk register which is reviewed in agreed time frames and maintained by partners.
- Partners share information to enable effective performance monitoring and option appraisal.

- Data sharing complies with data quality and transparency requirements to ensure accountability.
- Information is provided in formats that meet partner requirements.
- There are mechanisms in place for performance management between all partners, including Cabinet and Overview & Scrutiny oversight.
- There are clear channels and processes in place to ensure accountability.
- Arrangements are in place to tackle issues of non and/or poor performance.
- All partners can evaluate at any time the added value of being a member of the partnership and the performance and outcomes being achieved by it. Performance can be challenged through agreed processes.

## 2.7 The governance framework

Sound governance is key to effective partnership working and requires agreement between partners about purpose, membership and accountability of the partnership. All partnerships must have a governance framework, setting out the roles and responsibilities of the partner organisations and the decision making processes.

When determining the governance framework for a partnership, the parties should consider:

- a) Membership, including status of different members.
- b) Aims and objectives, including the purpose of the partnership, its added value and success measures.
- c) Strategy and activities.
- d) Timescales including how long the partnership is expected to last.
- e) Powers and legal status.
- f) Roles and responsibilities.
- g) Funding, taxation and financial accountability.
- h) Management and operation, including performance management arrangements.
- i) Meetings, including notice and frequency, quorum rules, chairing arrangements, voting arrangements and representation of other members;
- j) Decision-making processes (scope and timescales).
- k) Staffing and property assets needed.
- l) Conflict avoidance / dispute resolution.
- m) Information sharing protocols.
- n) Amendments to the partnership's rules.
- o) Exit strategy / arrangements for dissolution.

Examples of documentation and protocols that could form the governance framework include:

- a. Articles of Association (in relation to a company).
- b. Contracts for services between the council and third party – the contractual obligations – or Commissioning Agreement.
- c. Partnership Agreement.
- d. Shareholders' Agreement.
- e. Reporting processes and procedures, including links to council reporting.
- f. Directors or Trustees terms of reference or service contracts.
- g. Use of council officers or members on boards.
- h. Oversight by the council's Overview and Scrutiny function.
- i. Utilising a Council Shareholder's Reference board with or without decision making powers as a first point of reporting or accountability by the Partnership.
- j. Agreed operating protocols and procedures.

The purpose of the governance framework is not to recreate the same controls and processes as the council but to ensure that the public purse and services are delivered with sufficient oversight to ensure that principles of sound decision making, transparency and accountability are maintained.

## **2.8 Decision making**

Partnerships need clear lines of accountability and transparent decision-making processes, particularly for decisions that commit and/or allocate partnership resources.

A partnership's work can be impeded if decisions have to be separately ratified by the partners in advance and if the partner's decision making processes or timetables do not fit well together. Therefore, it is important that agents representing the partner organisations have the necessary authority to take decisions on its behalf and that those decisions can be scrutinised and challenged effectively.

Partnerships should also plan their work carefully so that they know well in advance when decisions with significant policy or financial implications will need to be made. It is important that all partners have sufficient time to evaluate the implications of major prospective decisions and to consider their own legal and financial advice.

It is vital for the partnership to agree and record how decisions are made.

The governance framework should address:

- a) How the partnership makes decisions, e.g. simple majority vote, casting vote by Chairman etc.
- b) The quorum (minimum number of voting members required to be present at any meeting for the decisions taken at the meeting to be considered as legitimate decisions of the body) for decisions made by the partnership.
- c) How decisions are communicated to people not present.
- d) How required actions are put into operation.

It is also recommended that the partnership establish the procedures and processes that govern its meetings. These should be kept to a minimum to avoid bureaucracy but be sufficient for clarity and effective operation.

## **2.9 Performance management**

The council will ensure that agreed partnership involvement, activity and outcomes are part of the council's performance management systems, and thereby the effectiveness of specific partnerships are monitored and reviewed as part of its performance management framework.

## **2.10 Communications strategy**

Each individual partnership should adopt a communications strategy specific to the work of the partnership and in agreement with partners. Where appropriate, one organisation should be identified as the lead agency for partnership communications. The lead agency will be responsible for ensuring liaison with the communications functions within other partner organisations.

## **2.11 Information sharing**

The council's data protection and freedom of information policies will generally apply where council business is concerned. The council will secure an information sharing protocol within

a partnership and between partnership organisations. The council will also have regard to any existing data sharing statements that may have been agreed.

### **2.12 Standards of conduct**

Partnerships should agree high standards of conduct that govern the way in which they work.

### **2.13 Interests and conflict**

Members of the partnership should have regard to the highest standards of behaviour and transparency in the conduct of public business and, in particular, will need to consider any personal or prejudicial interest they may have either as an officer or Member of the council. Where appointed in a position with a fiduciary duty (such as an officer of a company or trustee), any council officer or Member will need to consider any duties they have that may conflict with that associated with the council.

### **2.14 Exit and termination**

The governance framework should include provisions for both the planned and unplanned end of the partnership, regardless of the intended length of the partnership, including minimum notice periods. This may also include provisions for termination on grounds such as legislative changes, overspends or a breach of regulations where a minimum notice period may not be necessary.

### **2.15 Consultation arrangements**

A partnership may wish to undertake consultation, for example, on an issue or to help identify priorities. The council will endeavour to ensure that any consultation programmes and publicity exercises for the council, its partnerships and its partners are co-ordinated as effectively as possible.

### **2.16 Role of councillors and officers**

The council will be represented on any agreed partnership by specified councillors or officers. Each partnership on which the Council is represented will be allocated a sponsoring officer (usually a Head of Service) who, although they may personally not be the representative on the partnership, will be responsible for ensuring the delivery of this protocol in respect of the relevant partnership.

Any specified officers or councillors attending approved partnerships (as representatives rather than holding a duty such as directorship) will represent only the council and no other organisation. They shall abide by the council's Codes of Conduct at all times.

### **2.17 Scrutiny**

The scrutiny arrangement for a partnership should be clear and referenced in the governance framework.

### **Role of the council's Overview and Scrutiny in partnerships**

Scrutiny of other organisations external to the council is also a key element of Overview and Scrutiny's work. In relation to the council's partnerships, this means:

- Involving local people and community organisations in scrutiny activity of partners.
- Developing a dialogue with service providers and other stakeholders outside the council who interact with the partners.
- Taking up issues of concern to local people in respect to the partnership.
- Reviewing whether goals are being achieved by partners.

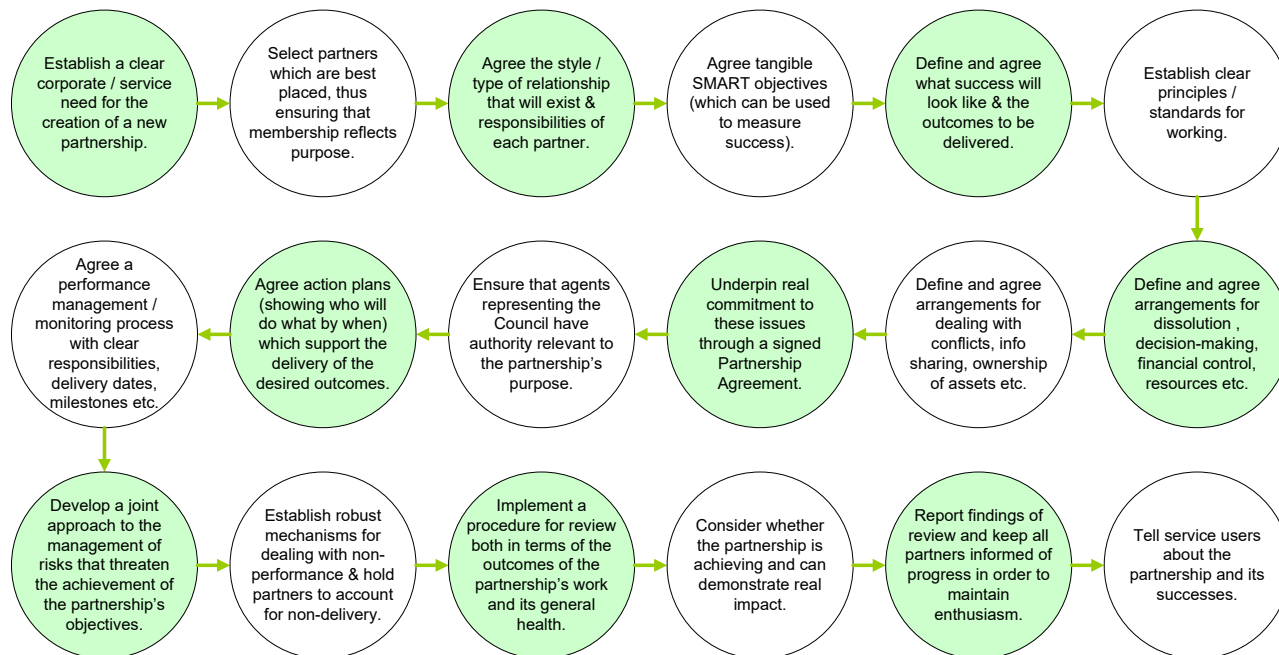
- Examining what can be done to solve problems and enhance performance and achievement.

## Appendix 1

## Points to consider for setting up successful partnerships

Developing a successful partnership working relationship requires good planning, see diagram 1 for a partnership implementation flowchart.

**Diagram 1: Partnership development flowchart**



### Points to consider

#### 1. Legal power

The council should determine whether it has legal power to enter into the partnership arrangement and ensure there is no law or other provision that prevents the council from entering into the partnership arrangement.

#### 2. Form of partnership

The Council should decide the legal status of the partnership. Specific advice should be taken to determine most appropriate form of partnership which include:

- **Informal arrangements** – which may be appropriate for matters such as specific initiatives with limited financial impact, knowledge sharing or temporary arrangements to cover an immediate problem.
- **Contractual arrangements** – with one party providing goods or services under contract to another authority or to residents either on a cost recovery or for profit basis.
- **Delegation of functions** – a delegation of functions (based on statutory powers rather than contract) to another authority.
- **Corporate/Joint Venture** – where two or more authorities (or a third party) establish a corporate vehicle (usually a company) as the vehicle for providing services back to themselves and/or to trade with a view to generating additional income.
- **Joint committee** – this model usually involves one authority hosting the service with the other collaborating partners contributing to costs incurred.

- **Local Authority Trading Company (LatCo)** – a company set up and wholly owned by the Council for the purpose of providing services back to the Council, undertaking a particular project and for the purpose of trading and generating an income for the Council.
- **Community Interest Company** – a not for profit company set up and either wholly owned by the Council or owned with other parties with the primary object of a social purpose or providing a benefit to the communities they serve.

### 3. Outcome indicators and measures of success

These are measures based on the actual outcomes the partnership is aiming to deliver i.e. they define what success will look like and can be used to determine the partnership's effectiveness and impact in achieving its strategic objectives. Outcome indicators or clear measures of success should be defined for each strategic objective.

### 4. Running the partnership

As a minimum, this should define arrangements for:

- General principles of conduct.
- Partners' roles / duties / responsibilities.
- Resource commitment for each partner.
- The ownership of assets.
- Decision making procedures.
- How the partnership will monitor and evaluate its activities.
- Meetings; notice and frequency of meetings; quorum rules; chairing arrangements; voting arrangements; and representation of other members.
- Information sharing principles / protocols.
- Organisational structure and reporting mechanism (how often, who reporting to and what reporting on).
- Performance management arrangements.
- How complaints will be handled.
- Member involvement (roles and responsibilities, democratic accountability, declaration of interests etc).

### 5. Financial matters

Where applicable, the governance framework should document:

- Partnership capital.
- Income and expenditure.
- Profits and liabilities apportionments.
- Grants and other sources of funding.
- Banking and financial arrangements.
- Accounting arrangements.
- Provisions for tax payments and VAT.

### 6. Other considerations

The governance framework should define:

- Arrangements for dealing with the media and other stakeholders.
- The circumstances necessary for the suspension, exclusion and removal of a partner.
- Arrangements for resolving conflicts and/or disputes.
- Procedures for whistle blowing / fraud etc.
- Right of access for appropriate audit bodies (Council's Business Assurance).



## **7. Dissolution**

The Partner Agreement should define:

- Termination provisions.
- Exit strategy (including surpluses and mediation).
- Final reporting arrangements.
- Arrangements for informing funders and all stakeholders/service users at dissolution.

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# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **K - Communications Protocol**



**Royal Borough of Windsor & Maidenhead****Communications Protocol and Principles****1. Introduction and Objectives**

The aim of this protocol is to ensure that the Royal Borough of Windsor & Maidenhead (“the Council”) makes the best use of its communications resources to support open, accessible, and responsive communications, whilst acknowledging that council resources may not be used for party political purposes.

It clearly sets out the respective roles of all members and officers in dealing with the media.

Adherence to the protocol will ensure consistency of standards, accuracy of information and appropriate political and officer input with a view to protecting and enhancing the reputation of the Council.

The aim of the protocol is to ensure that the council is seen to communicate in a professional and objective manner.

In all cases, the council’s approach to the media should be:

- open and honest
- proactive
- responsive
- timely

The ability to act as quickly and decisively depends on being fully up to date as a communications team. Councillors and officers should ensure issues which will affect the council’s reputation should be brought to the attention of the communications team in confidence as soon as possible.

If there is any doubt over, or challenge to, the interpretation or application of this code, the matter will be referred to the Monitoring Officer for a decision. Where agreement about communications content cannot be reached, the Monitoring Officer will decide.

**2. Scope**

The Protocol applies to any the Council’s communication, including:

- Press releases and statements to the media
- Digital content including web copy, visual/ audio content and social media
- Any communication or document prepared by the Council services for public consumption, including advertising, leaflets, newsletters, reports, posters, banners, flyers or websites
- Any document or publicity with which the Council is associated with.
- Even if the publication is produced in partnership or is a joint document then the communications protocols and brand guidelines still apply

- Any publication or work prepared for the public domain, by consultants or contractors when working on behalf of the Council.
- Internal communications to staff and partners.

Protocols apply to everyone who works for the Royal Borough of Windsor and Maidenhead in any capacity, or who represent the organisation in some way, including:

- All members
- All employees within the organisation, including those employed on an agency, freelance or consultant basis
- Volunteers working with council service teams
- Partners, providers and suppliers (including contracted or commissioned services) that may want to refer to the Royal Borough of Windsor & Maidenhead Council in publicity material

### **3. Communications at the Royal Borough of Windsor & Maidenhead**

The Council is committed to effective communication with its residents, councillors, stakeholders and interested parties.

Providing a professional information service to the media is a key responsibility for the council and we take a proactive approach to working with the media wherever possible.

The communications team will provide the Chief Executive, senior managers, and councillors with advice on communications issues, which relate to the reputation of the council and its policies and services.

Effective communication is every member of staff's responsibility. Officers will keep the communications team informed about plans and items that could generate media interest or require other types of communication with sufficient advance notice to maximise opportunities.

The Council communicates in a variety of ways and uses a range of online and offline methods. These include social media, press releases, email newsletters, the website, posters and publications and advertising, as appropriate. The communications protocol applies to all of these communication types.

Our protocol explains the council's approach to managing external communications, the media, working procedures and the role of officers and councillors involved in this process.

Publicity should not be, or liable to misrepresentation as being, party political. There should be no party-political terms, political slogans or direct attacks on policies and opinions of other parties, groups, or individuals.

The council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the

#### **4. Legal Framework**

All press releases and media engagement on behalf of the council will:

- (a) be issued or organised through the council's communications team;
- (b) be approved in accordance with section 8 of the Protocol
- (c) be concerned only with matters of policy and/or which relate to the council's functions as a whole; and
- (d) not contain anything of a political nature.

In this respect regard must be given to the relevant legislation concerning publicity issued by local authorities, especially around election time, as summarised below.

Any policy related comments will normally be made by the Leader, in his /her absence the Deputy Leader or, where appropriate, the relevant Cabinet Member.

Under Section 2 of the Local Government Act 1986 it places a prohibition upon the council that it:

*"shall not publish any material which, in whole or in part, appears to be designed to effect support for a political party. In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters:*

- (a) Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;*
- (b) Where material is part of a campaign the effect which the campaign appears to be designed to achieve"*

The term 'publicity' is defined in the Act as "any communication in whatever form, addressed to the public at large or a section of the public".

Local authorities are also required by section 4(1) of the Act to have regard to the Code of Recommended Practice on Local Authority Publicity contents of in coming to any decision on publicity.

#### **5. The Publicity Code**

The Code of Recommended Practice on Local Authority Publicity was last issued in 2011 can be found on the website of the Ministry of Housing, Communities & Local Government.

The Publicity Code is grouped into seven principles for local authorities to follow, that the council's publicity should:

- **be lawful**
- **be cost-effective**
- **be objective**
- **be even-handed**
- **be appropriate**
- **have regard to equality and diversity**
- **be issued with care during periods of heightened sensitivity.**

The Publicity Code gives recommended practice on a number of aspects of publicity covering subject matter, costs, content, dissemination, advertising, recruitment advertising, publicity about individual members of an authority, timing of publicity, elections, referendums and petitions, and assistance to others for publicity. The principles may be summarised as follows:

The principle of lawfulness is that an authority's publicity should comply with statutory provisions and advises that any paid-for advertising published by a local authority should comply with the Advertising Standards Authority's Advertising Codes.

The principle of cost-effectiveness is that local authorities should be able to confirm that consideration has been given to the value for money that the publicity is achieving, while recognising that in some circumstances this will be difficult to quantify.

The principle of objectivity requires local authority publicity to be politically impartial.

The Publicity Code acknowledges that a council has to be able to explain its decisions and justify its policies, but this should not be done in a way that can be perceived as a political statement or a commentary on contentious areas of public policy.

The principle of even-handedness has the effect that local authority publicity can address matters of political controversy in a fair manner and may contain links to other political sites or contain political logos on material hosted for third parties. But local authorities should ensure that publicity about the council does not seek to affect support for a single councillor or group. The Publicity Code does, however, recognise that at times it is acceptable to associate publicity with a single member of the council.

The principle addressing the appropriate use of publicity is that local authorities should refrain from retaining the services of lobbyists, i.e. political professionals whose job it is to bring their client's message to those in a position to influence policy.

Appropriate use of publicity is also about the frequency, content, and appearance of council newsletters in order to prevent unfair competition with local newspapers. It sets out that generally the frequency of council newsletters should be no more than quarterly.

The equality and diversity principle is that publicity by local authorities may seek to influence positively the attitudes of local people in relation to matters of health, safety, and other issues where publicity can have a positive influence on the behaviour of the public.



Finally, the principle that local authority publicity should be issued with care during periods of heightened sensitivity gives guidance as to how local authority publicity should be treated during period of elections and referendums, both national and local.

## **6. Media Relations**

The Royal Borough of Windsor & Maidenhead values the media as one of its key partners in communication and aims to forge strong professional links with local, regional, and national media.

The council is committed to being transparent and maintaining a positive working relationship with media. We respect the right of the media to report on any given topic.

Providing a professional information service to the media is a key responsibility for the council. The council takes a proactive approach to working with the media wherever possible.

The way in which the council is portrayed in the media has a major influence on how it is perceived, and every opportunity should be taken to publicise the council's services, decisions, policies, and initiatives.

All councillors and officers should support the communications team in responding to media enquiries in a timescale that meets journalists' deadlines. If the council fails to reply in time, the journalist may source their story elsewhere or record a 'no comment' response, which may not be in the council's interests.

The communications team will never knowingly mislead the media on a story. In order to maintain a good long-term relationship, the department needs to be trusted by the media and the wider community.

## **7. Press release content**

All media enquiries should be referred to the communications team in the first instance and the identified communications point of contact. This enables the service to make a judgement about how an enquiry should be answered and by whom. The response can often be handled with a written statement.

The vast majority of council publicity will include a written quote or interview, which can help to make the content more interesting and provide an authoritative voice on the subject matter. In certain cases, where a press release or statement is simply to provide a brief announcement or notice, this may not be necessary

### **Spokespersons**

One of the most important aspects of dealing with and managing media is being able to provide a prompt response to a query, question, or interview request. The sooner we can respond and involve ourselves in the story, the greater the chance we have

to influence it. This is especially important where the council's reputation might be affected.

We will also work to influence the news agenda proactively by offering people for interview or providing case studies to illustrate topical issues. We will use our forward planning process to identify opportunities in advance but may still want/have to exploit on-the-day stories particularly when there is breaking news or developing stories.

It is important that quotes are attributed to an individual as this demonstrates responsibility and counters perceptions that the council is a faceless and unaccountable organisation.

The Leader, Deputy Leader and Cabinet Members will act as spokespersons for the council in responding to the press and media and making public statements on behalf of the council. The Leader, Deputy Leader and Cabinet Members should liaise with the communications team on all forms of contact with the press and media.

Where a matter has significant implications for policy or the reputation of the council, the Leader of the Council will be contacted.

The Leader of Council and/or Cabinet Members will be quoted in all other press releases.

Where the appropriate responsible Member is unavailable within media deadlines, and therefore unable to approve comment that would otherwise be attributable to him/her, the Leader of the Council will be quoted or an alternative suitable responsible councillor.

In the event of neither the Leader or the Cabinet member being available, an appropriate responsible officer will approve the quote, which will be attributed to a 'council spokesperson'. Whilst this is not best practice from a public transparency or accountability perspective, it does serve to reinforce the clearly defined roles of councillors and officers in the decision-making process.

Quotes will be attributed to officers on any specific operational issues which requires technical or in-depth knowledge to articulate. Officers will be quoted in circumstances where a member of the public would reasonably expect an operational, officer perspective. Communications officers will advise with recommendations.

Quotes, comments, and statements will reflect the factual representation of the council's or committee's decisions, and not that of the individual and/or political party views.

These situations will be such as when:

- where it is likely that a press deadline would be missed resulting in a lack of response from the council;

- there is a need to respond extremely quickly in changing circumstances to maintain the flow of information to the public (e.g. an emergency road closure or an environmental health investigation);
- specific technical information is being explained
- there is a legal aspect to the comment which would benefit from attribution to a professional officer rather than a politician.

## **8. Press release and statement production**

The communications team will guide and be guided by the Chief Executive, Executive Directors, Deputy Director, Heads of Service, Leader, or Cabinet Member on whether to issue a press release.

Heads of Service should request their teams to draft a press release which includes key information that they want to share including what they want people to do with the information (key message and call to action) and how it fits with strategic objectives and priorities and overall council plan. The communications team should be given five working days' notice before it needs issuing to ensure there is enough time to fully prepare the release and gain approval.

It is recognised that some press releases are needed due to emerging announcements and they would be issued as soon as is practicable.

Press releases can be issued prior to Cabinet or Full Council meetings to inform the media of factual information regarding a specific meeting, for example when the report is published to the council website. They can also be issued as soon as feasible following a decision made at Cabinet/Council noting that there may be a call-in process.

Press releases must have contact details to inform the media how they gain further information.

It is essential that the Councillor and/or officer lets the communications team know if they are not going to be available at the time of the issuing of the press release.

Press releases will be issued to all Councillors at the same time as the media.

Media releases which are embargoed will be sent to all Councillors at the time that the embargo is lifted.

Press releases will be added to the council's website for a period of one year and will then be removed.

### **Press release approval process**

If quotes are included within press releases, they can only be on behalf of the council from Cabinet Members or the Mayor/Deputy Mayor and their responsibility will be included.

The content of such quotes will be cleared in advance with the Councillors concerned and they are only approving their comments and not the body of the press release.

Approval of the body of the press release is the responsibility of the relevant Head of Service and Director.

This template will be added to all press releases to show the approval process

	<b>Embargo:</b> Yes (date) / no	<b>Approval:</b> Operational officer(s)	<b>Head of service</b>	<b>Director</b>	<b>Cabinet member</b>	<b>Legal/Other</b>
	No	e.g. Angela Huisman	e.g. Louise Freeth	e.g. Adele Taylor	e.g. Cllr Rayner	e.g. Elaine Browne/ Emma Duncan
<b>Media to issue to:</b>	General press list Local Trade press					

### **Press releases/press statements – officers’ role**

Heads of Service are encouraged to think about their own service and how they can achieve effective publicity and to proactively promote good news stories within their team. This relates to possible stories that can be used in press releases, features, radio interviews and photo-calls. All press release and press statements should be issued through the corporate communications team. On some occasions press releases may be issued via other channels but the corporate communications team needs to be aware of the release

Officers can carry out media interviews and be quoted in press statements in a number of circumstances.

- The Cabinet Member has agreed that they are the subject matter expert and an operational viewpoint is needed.
- The media outlet requests operational detail.
- Elections have been called and we are within the pre-election period which restricts interview from political parties.

### **9. Media releases and publicity**

The communications team is available to provide general advice to all Councillors on media relations. However, it cannot provide practical support to Councillors on media relations in respect of views which do not reflect council policies, or which affect public support for a political party or the promotion of individual Councillors.

## **10. Party Political Press Releases**

Party and political group views, decisions and communications are separate from the role of the council's communications team and should be conveyed through news releases and publications resourced and issued by their own groups and be clearly endorsed with the name of the political group concerned.

The communications team, as a matter of courtesy, would appreciate copies of any release which a political group sends out.

## **11. Factual press enquiries**

Some media enquiries require simple factual responses, for example clarifying a very straightforward point on a release which has been issued. In such cases, the communications team will deal directly with the query, taking the advice of an officer when appropriate. Sometimes an officer may speak direct to the media (in liaison with the communications team) to answer a purely factual query or a written response could be issued. These queries will not routinely be reported to Members.

## **12. Social media**

The communications team monitor and run the corporate Facebook and Twitter accounts for the council.

The accounts will post content relating to corporate comms campaign as well as updates and information that our followers could find of interest.

The accounts may also share posts from all councillors if it is relevant, interesting, and useful to our followers.

There are other accounts that are run within the council. They include, Visit Windsor, Libraries, Museum and My Royal Borough.

They have been created for a specific purpose to share information about their service or function.

All accounts can like content from other accounts as well as retweet from other accounts if appropriate.

## **13. Media/photo-call events**

Invitations to media/photo-call events which are organised by the communications team will always include:

- Leader
- The relevant Cabinet Member (s)

The communications team will liaise with the relevant Cabinet Member(s) when setting up these events.

Photos taken by the council's communications team should not be used by councillors in political releases or newsletters as they are the property of the Council.

#### **14. Mayoral press releases**

The mayor is the borough's civic head and is involved in several civic functions each year including the mayor's civic reception and the Remembrance services.

The civic team co-ordinates the mayor's diary and alerts the communications team to events that may need press releases.

The quotes in the press releases will be approved by the mayor.

#### **15. Letters issued to the press**

If Cabinet Members/Councillors wish to send letters to the media, the communications team will not produce these or draft them other than to provide factual information.

In certain circumstance, when it is considered the best strategic option, the communications team may draft a letter as it is the most appropriate response to reputational risk.

#### **16. Use of the council crest/logo**

The crest and logo are intellectual property belonging to the council and should not be used in any communications other than those specifically approved by the council, through the Communications Team, for release.

#### **17. Elections**

The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election.

Publicity should not deal with controversial issues or report views, proposals, or recommendations in such a way that identifies them with individual councillors or groups of councillors.

However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political.

Councillors holding key political positions should be able to comment in an emergency or where there is a genuine need for a councillor level response to an important event outside the authority's control.

Proactive events arranged in this period should not involve councillors likely to be standing for election.

### **18. Major incidents**

In the event of a major incident, emergency or break in business continuity, the communications team will liaise with the emergency planning team regarding the release of information to the media and the public.

This may involve liaison with other agencies including Thames Valley Police, South Central Ambulance service and Royal Berkshire Fire and Rescue Service.

In these situations, statements will be signed off by the most appropriate person – gold or silver representative or a Head of Service/Director.

### **19. Correcting Inaccurate Reporting**

Should the media publish/broadcast an inaccuracy relating to council business, policy or process, a quick decision will be taken on any action necessary to correct it.

The issue will be discussed with the appropriate Cabinet Member and Director/Deputy Director/ Head of Service and a plan of action agreed.

It should be noted that in the case of minor inaccuracies which have little or no impact on the message being conveyed, it can sometimes be counterproductive to complain. Each case must be judged individually.

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**PART 8 – OTHER RULES OF  
PROCEDURE**

**A – CONTRACT AND TENDERING  
PROCEDURE RULES**

# **CONTRACT AND TENDERING PROCEDURE RULES**

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## Part 1

### Introduction – Purpose of the Contract and Tendering Rules

These Contract and Tendering Rules are made in accordance with the requirements of Section 135 of the Local Government Act 1972 and take into consideration the Public Contracts Regulations (PCR) 2015. These rules form part of the Council's Constitution and are, in effect, the instructions of the Council to officers and Members for undertaking expenditure on behalf of the Council. It should be noted that in the event of conflict between these Contract and Tendering Rules and any current legislation governing procurement, the legislation will prevail.

Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract and Tendering Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:

- Furthers its corporate objectives.
- Uses its resources efficiently and secures value for money.
- Purchases quality fit for purpose goods, services and works.
- Safeguards its reputation from any implication of dishonesty or corruption.
- Is open, fair, transparent, and proportionate and fully compliant with Procurement Law (the Public Contracts Regulations 2015 as amended).

The Monitoring Officer (the Council's Monitoring Officer, means the officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council's compliance with the law and rules of administration) is accountable for advising on and interpreting these Contract and Tendering Rules, issues of precedence, and the law relating to Council contracts and overseeing adherence. Day-to-day advice in respect of these Contract and Tendering Rules is delegated to the Procurement Team.

The Procurement Team can be consulted for any requirements, however, they must be consulted, in advance of any undertaking, for all requirements over **£50,000**. They will provide detailed guidance and support and supply the appropriate mandatory templates. Where a Concession contract is being considered Procurement must be consulted to establish whether the proposal meets the criteria to be considered a Concession Contract. They can also provide contact details for any other officers referenced in this document.

## Part 2

### General Principles – Application and Compliance with the Contract and Tendering Rules

#### 1. Application and Scope of the Contract and Tendering Rules

- 1.1 The Contract and Tendering Rules apply to all contracts for the supply of works (e.g., construction and maintenance of roads and buildings), goods (or supplies) or services to the Council, regardless of value. This includes Concession contracts, Service Level Agreements (SLAs), Memorandum of Understandings (MoUs); grants and any applications for funding. In these cases, the relevant approvals to the outcome, set out in Section 14 'Seek approval to the Outcomes must be obtained before proceeding.
- 1.2 The Contract and Tendering Rules do not apply to contracts:
- For the appointment of permanent or fixed-term employees (but do apply to the appointment of temporary workers or consultants).
  - For the purchase or sale of any interest in land (including leasehold interests).
  - Direct care payments to residents.
  - The supply of works, goods and services by the Council.
- 1.3 Schools are encouraged to use these Contract and Tendering Rules as best practice when entering into all contracts, adapting them as required to meet their governance arrangements.

#### 2. Responsibilities

- 2.1 Each Director is responsible for ensuring that their directorate complies with these Contract and Tendering Rules. Heads of Service must be conversant with the Contract and Tendering rules.

#### 3. Conflicts of Interest and Standards

- 3.1 All officers will comply fully with the provisions of Section 117 of the Local Government Act 1972 in respect of the declaration of interest.
- 3.2 Consultants who assist in the preparation of a specification must not be invited to quote for the contract, or form part of the evaluation panel, they may provide expert guidance on the tender submissions to assist officers in evaluating submissions.
- 3.3 Any officer who is a relative, friend, personal associate or close acquaintance of any individual involved in the procurement process or in a senior position with any organisation bidding for any contract with the Council of which he/she is aware or should be aware must declare that relationship to his/her senior officer. Express permission must be sought from the relevant Director for that individual

to take part in the specification, procurement, evaluation or supervision of any such contract.

- 3.4 Officers must adhere to the highest standards of integrity. Further guidance on officer conduct is available in Council policies.
- 3.5 Any proposed contract for provision of works or services between the Council and an elected Member of the Council or their business, or where an elected Member has a monetary interest in the business, or a close member of their family must be approved by the Chair of Cabinet and the Cabinet Member for Finance, (in the event of a conflict of interest or when necessary by their appointed Deputies who must be a member of the Executive) and be recorded by the relevant Officer, and who should make the Monitoring Officer aware, prior to any works or services being supplied or paid for. Declarations of Interest must be amended to reflect the proposed new contract.

#### **4. Compliance**

- 4.1 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Contract and Tendering Rules. Failure to comply with these Contract and Tendering Rules may result in disciplinary action and legal proceedings against members of staff and consultants concerned.
- 4.2 Breaches of these Contract and Tendering Rules must be reported to the Monitoring Officer and the Head of Audit, via the Head of Finance.
- 4.3 Any officer or member of staff who suspects any misconduct or corruption in relation to any purchase by or on behalf of the Council must immediately report that suspicion to the Council's Monitoring Officer and the Head of Audit, via the Head of Finance.

### **Part 3**

#### **Procedure – The Mandatory Sequential Steps in any given Procurement Process**

##### **1. Procedural Requirements**

- 1.1 If there is a Corporate Contract it must be used. If not, the following steps must be completed in sequence for any requirement:

##### **2. Corporate Contracts**

- 2.1 Corporate Contracts are Council-wide contracts that all officers must use. They may be managed by an officer in a different service to the Responsible Officer. Unless otherwise agreed by the Procurement Manager, where there is a corporate contract for the supply of any works, goods or services, the Responsible Officer must buy through that contract, rather than awarding a separate contract for his/her own use. The Procurement Team can advise on available Corporate Contracts.

##### **3. Calculate the Contract Value**

- 3.1 The estimated value of a contract or series of related contracts shall determine the way in which the contract is let.
- 3.2 The contract value shall be the genuine pre-estimate of the value of the entire contract (excluding Value Added Tax). This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions, variations and options). This includes requirements across the entire Council, not just the requirements of a single team or service area.
- 3.3 Contracts must not be artificially split to avoid the application of the provisions of Procurement Law and/or these Contract and Tendering Rules.
- 3.4 Procurement Law covers contracts which are below the relevant UK Procurement threshold where they constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers must seek advice from the Procurement Team on the application of Procurement Law where repeat purchases and/or purchases of a similar type may be required.
- 3.5 As the Responsible Officer may not know of all of the requirements outside of their service area, the Procurement Team will provide advice in this respect.

##### **4. Describe Requirements**

- 4.1 The Responsible Officer must prepare a clear and comprehensive statement of the Council's requirements with regard to the works, goods or services to be supplied (a specification). As part of this process the Responsible Officer must obtain all necessary professional and technical advice and assistance and undertake market research so that options and the cost of the requirements are fully understood.

4.2 The statement of requirements should be as open as possible, describing what is needed, rather than how the need is to be fulfilled, to enable suppliers to contribute their knowledge and experience i.e. outcome/output based. All works, goods and services must be specified by reference to European standards, or national standards where no European standards exist and with the words “or equivalent” added. Named products or manufacturers must not be specified as to do so would be in direct contravention of Procurement Law.

4.3 The statement of requirements should incorporate measurable and, where possible, objective quality and performance criteria to enable the Responsible Officer to see whether the Council’s requirements have been met.

## **5. Determine the Procurement Route**

5.1 Determine if the Council will run its own competition or if a Framework will be used.

5.2 Frameworks are contracts set up by central/ collaborative bodies which other parties can utilise. Use of a Framework can speed up the supplier selection process and leverage economies of scale. The Procurement Team can provide guidance on how to find out more about specific Frameworks. Responsible Officers must check that:

- the Council is legally entitled to use the Framework;
- the purchases to be made legally fall within the coverage of the Framework;
- the Framework meets the Council's own requirements in terms of quality and cost;
- any other pros and cons of using the Framework versus running a Council competition must be considered.

5.3 Each Framework will have its own procedure to follow. These requirements will supersede those in this document with the exception of the Council’s approval steps as outlined in these Contract and Tendering Rules. Legal services do not have to be involved in contract terms and conditions set by the Framework Provider unless procurement consider it necessary.

5.4 If a Framework is not the most appropriate route, the Council will need to run its own competition. The tables below provide details of the process that must be followed depending on the contract value, unless an exception is granted by the Procurement Manager.

For Supply/Services contracts

<b>Activity</b>	<b>£0 - £50k</b>	<b>£51k – UK Procurement Supply/Services Threshold (as at 01/22 £213k)</b>	<b>&gt; UK Procurement Supply/Services Threshold (as at 01/22 £213k)</b>
<b>Minimum Number of Suppliers</b>	No minimum	Three Notices can be placed in Contracts Finder.	The Regulations. Notices must be placed in Find A Tender (FTS) and Contracts Finder.
<b>Minimum Time for Supplier Response</b>	No minimum but must be reasonable.	Not less than ten calendar days but must be reasonable.	As per regulations / rules governing Procurement Route selected.



## For Works and Concession contracts

Activity	£0 - £50k	£50 - £500k	£501k - UK Procurement Works/Concession Threshold (as at 01/22 £5.3M)	> UK Procurement Works/Concession Threshold (as at 01/22 £5.3M)
Minimum Number of Suppliers	No minimum	Three Notices can be placed in Contracts Finder. Constructionline may be used.	Five Notices can be placed in Contracts Finder. Constructionline may be used.	The Regulations. Notices must be placed in Find A tender (FTS) and Contracts Finder.
Minimum Time for Supplier Response	No minimum but must be reasonable.	Not less than ten calendar days but must be reasonable.	Not less than ten calendar days but must be reasonable.	As per regulations / rules governing Procurement Route selected.

## 6. Set the Assessment Criteria

- 6.1 A minimum level of capability must be set. This may include financial stability, having essential policies in place and evidencing relevant experience. These are known as the selection criteria. The selection criteria must be set proportionately to the value and risk associated with the requirement and be fair and open to all potential bidders.
- 6.2 Suppliers who meet the selection criteria should be considered on a more detailed basis. Responses would normally be evaluated on a combination of quality and price criteria this is known as the award criteria. The combination of quality and price is known as MEAT (Most Economically Advantageous Tender).
- 6.3 Weightings must be set for each of the criteria and sub-criteria relative to their importance.
- 6.4 The mandatory templates have a section for criteria and weightings and the Procurement Team can provide further guidance.
- 6.5 If the basis of evaluation is most economically advantageous the Responsible Officer must arrange for an appropriate evaluation panel to consider the

responses. The evaluation panel may include service users but may not include elected Members of Council, or Consultants. The evaluation panel should, as a rule, comprise those people who have significant input into drawing up the specification and/or relevant expertise and the contract manager (if it is not the Responsible Officer).

- 6.6 External Consultants may review tender submissions and provide a narrative report to assist and inform the evaluation panel, but they cannot score tender submissions.

## 7. Determine the Terms & Conditions

For Supply/Service, Concession and Works:

Activity	Under £50k	£51k - £213k	> £213k
Selection of Terms and Conditions	PO Terms and Conditions or Self Service Terms and Conditions from SharePoint.	Self Service Terms and Conditions from SharePoint.	Legal Services must be instructed.

- 7.1 If the value of the contract is under £50k and the services or goods are low risk, Purchase Order terms and conditions can be used (these are printed on the reverse of the document that is sent to the supplier when a Purchase Order is raised). A copy of the Purchase Order terms and conditions can be found on Sharepoint in Procurement Templates. As an alternative to using the Council's standard Purchase Order the Responsible Officer may use the Council's Purchasing Card (where appropriate as defined by the Purchasing Card Guidelines). Purchase Orders or Purchasing Cards cannot be used for works, ICT, care and consultancy contracts regardless of value.
- 7.2 If the value of the contract is over the UK Procurement Services threshold (£213k as at 01/22) or of any value that is considered high risk (e.g., involves safeguarding, statutory requirements, intellectual property rights or is high profile), Legal Services must be instructed via Sharepoint to provide Terms and Conditions. For similar, repeat requirements, a single instruction to Legal Services for template Terms and Conditions is acceptable. Any template Terms and Conditions must not be altered without reference to Legal Services. Legal Services may use Council specific or industry standard Terms and Conditions as appropriate to the subject matter.
- 7.3 In certain instances the Council may have to use a supplier's Terms and Conditions. These must be provided to Legal Services for review so that any onerous provisions can be amended, or the risk can be acknowledged and managed by the Responsible Officer.
- 7.4 Letters of Intent may not be used as a substitute for a contract. Exceptionally they may be used in advance of a contract if the format has been agreed with

Legal Services and the circumstances have been agreed with the Procurement Manager.

7.5 The Responsible Officer must give full instructions to Legal Services so that the contract is an effective document. These include:

- A comprehensive description of the requirements (the specification) and any other relevant documents.
- The start and end dates for the contract (indefinite/ rolling contracts are not permitted. Any exceptions must be agreed by the Procurement Manager).
- Appropriate and adequate levels of insurance cover. Unless otherwise agreed with the Insurance & Risk Manager, the minimum levels of cover shall be:
  - **£5 million** for public liability insurance,
  - **£2 million** for professional indemnity insurance (if appropriate)
  - **£10 million** for employer's liability.

The Insurance and Risk Manager can also advise on the appropriateness of bonds and parent company guarantees.

- Details of any staff that may transfer to a new supplier so that provisions can be made for TUPE (Transfer of Undertakings (Protection of Employment) Regulations). Human Resources must also be consulted if TUPE may apply to Council employees.
- On what basis the supplier will be paid (and in what instances they will not be paid).
- How performance will be managed (including performance indicators, dispute resolution, complaints handling, business continuity, damages in case of non-performance and reasons for termination).
- Any other particular requirements (e.g., if safeguarding or intellectual property provisions apply).

7.6 The contract must provide for payment by the Council after the supply of the works, goods or services and the approval of associated invoices. Exceptionally, and only with the consent of the Council's Head of Finance, a contract may provide for payment in full or part in advance.

7.7 For the avoidance of doubt, Purchase Orders must still be raised where a contract is in place as they fulfil an independent financial and governance function (as well as providing terms and conditions for low value and risk requirements).

## 8. Approval to Seek Proposals (Go out the Market)

8.1 Once a budget has been allocated for the expenditure the following levels of approval to seek proposals apply:

For Supply/Services:

<b>Activity</b>	<b>&lt;£213k (Below threshold) (as at 01/22 £213k)</b>	<b>£213k+ (Above threshold) (as at 01/22 £213k)</b>
<b>Seek Approval to Proceed</b>	<p><b>Head of Service</b></p> <p>A record of the request for approval can be done via email and must be kept for audit purposes and be available on request.</p>	<p><b>Relevant Head of Service in consultation with Heads of Service Group and relevant Cabinet Member(s)</b></p> <p>A record of the request for approval can be done via email. A briefing note must be prepared for the group to be consulted. Sufficient time must be given to review and provide comments. Once consultation has concluded, the HOS should complete an Officer Decision form.</p>

The exception to the above is that for emergency social care placements, the Director of People may grant approval for placements. A record of these placements must be maintained by the DASS/DCS and the Contracts Register.

For Works and Concession Contracts:

<b>Activity</b>	<b>&lt;£500k</b>	<b>£501k+</b>
<b>Seek Approval to Proceed</b>	<p><b>Head of Service</b></p> <p>A record of the request for approval can be done via email and must be kept for audit purposes and be available on request.</p>	<p><b>Relevant Head of Service in consultation with Heads of Service Group and relevant Cabinet Member(s)</b></p> <p>A record of the request for approval can be done via email. A briefing note must be prepared for the group to be consulted. Sufficient time must be given to review and provide comments. Once consultation has concluded, the HOS should complete an Officer Decision form.</p>

Where packages of Works are part of a Programme of Works, individual approvals are not required. The Programme of Works will be approved at the relevant level.

8.2 Decisions must be recorded as per the tables above.

8.3 In order for a meaningful decision to be made the following information must be included (as proportionate to the value/ risk of the specific requirement and as agreed with the Procurement Team):

- Analysis and evaluation of all options for contract packages and methods of procurement, referring to market analysis and collaborative/ shared arrangements.
- Demonstration of alignment to Council vision and priorities.
- Consultation with stakeholders within and outside the Council.
- Analysis of lessons learnt from any current/ previous arrangements.
- Stimulation of diversity and innovation, enhancement of choice and quality for residents.
- Sustainability e.g., Single Use Plastic (SUP); electric vehicles, environmental factors, supporting local jobs.
- A breakdown of the anticipated costs, including options of different requirements with different costs and targeted savings.
- Risks (regarding the process and the supply).
- GDPR consideration, Privacy Impact Assessments completed.
- An Equalities Impact Assessment (EQIA), if applicable.
- How the responses will be assessed, and the weighting attributed to particular factors.
- Who the evaluation panel will be.
- The duration of the contract.

8.4 Responsible Officers are encouraged to combine approvals where appropriate e.g., to the budget and/or there is a programme of similar requirements, such as schools capital projects.

## **9 Advertising and Communicating Requirements**

9.1 Once approval to seek Proposals (go out to the market) has been obtained, where required, advertisements can be placed. Above threshold procurement, where a Framework is not being used requires a Find A tender (FTS) Notice and a Contracts Finder Notice. Only the Procurement Team can place an FTS advertisement; Contracts Finder Notices can be placed by anyone with a logon userid.

9.2 For below threshold procurements, unless otherwise agreed in writing by the Procurement Manager the instructions to suppliers must be in the latest version of the templates created and maintained by the Procurement Team (i.e., the quotation, PQQ or tender documents). This will enable the Responsible Officer to satisfy themselves that the suppliers invited to quote have the legal, financial and technical capacity (including their health & safety, equal opportunities, and other relevant policies) to undertake the contract for the Council and that they will provide value for money. They also provide assurance that a fair and transparent process will be followed.

## **10 Receipt of Submissions**

10.1 For all above threshold procurements the Council's e-procurement system must be used. For below threshold procurements the Responsible Officer is responsible for receiving and holding secure all emailed submissions. It is preferred that a Generic Email address is used for receipt of submissions. Emails and their attachments must not be opened until after the submission date and time has expired.

10.2 For any responses that are received after the date and time specified for return the supplier must be advised accordingly. The Responsible Officer must obtain advice from the Procurement Manager if they wish to accept a late response. The Responsible Officer must notify the Procurement Manager of any rejection of a late response as soon as possible after this decision has been made and before the supplier is advised.

10.3 Responses must be opened one at a time by the Responsible Officer.

10.4 The Responsible Officer must record:

- The works, goods or services to be supplied.
- The name of each supplier who quotes.
- The amount of each response or such other information as may be relevant to the procurement.
- The date and time of opening of each response; and
- Any omissions and any non-compliant responses.

The Responsible Officer must certify the record as correct.

10.5 The Responsible Officer must keep securely one clean, archive copy of each submission in accordance with the document retention policy.

10.6 Until the contract has been awarded, the information obtained at the opening of responses is confidential to those involved in the opening process and those directly involved in evaluation of the responses. Even after award, any commercially sensitive information must be treated as such. Confidentiality must be maintained, and any breach reported to the Council's Monitoring Officer.

## **11 Evaluate the Responses**

11.1 Responses must be evaluated in line with the instructions given to suppliers (i.e., in the quotation, PQQ or tender documents).

11.2 Clarifications must be designed to ensure that the Council has fully understood the response submitted e.g. TUPE implications have been fully priced and there are no material exclusions or assumptions. Finance can assist with financial clarifications. Negotiations with suppliers are not permitted by Procurement Law and are therefore not to be undertaken. Clarification questions and answers must be fully documented in a form approved by the Procurement

Manager. Responses must not be finally evaluated and scored until clarifications have been completed.

- 11.3 All responses received that have met our minimum stated requirements must be evaluated. Each member of the evaluation panel must make full notes of his/her evaluation and pass the notes to the Responsible Officer for retention as part of the record of the procurement. Consensus scores must be reached, and the rationale recorded. It is important that any notes and records are comprehensive as they may be shared with the suppliers.
- 11.4 A response that is qualified or expressed to be conditional upon the Council's acceptance of material alterations to the statement of requirements or the terms and conditions of contract must be treated as non-compliant and rejected.
- 11.5 The Responsible Officer must notify the Procurement Manager of any rejection of a non-compliant response as soon as possible after this decision has been made and before the supplier has been notified.

## **12 Amendments and Alterations to Responses**

- 12.1 A supplier's response is their offer to the Council, which the Council may accept as it stands. Once they have submitted their response, a supplier is not permitted to make any material alterations to the amount or any of their proposals in the response.
- 12.2 If a supplier attempts to alter their offer after the latest date for receipt of responses, they must be given the opportunity to stand by or withdraw their original offer.

## **13 Lack of Suitable Responses**

- 13.1 If no suitable responses are received, the Responsible Officer must consult the Procurement Manager as to how the works, goods or services concerned may be procured.

## **14 Seek Approval to the Outcome (Approval to Award)**

- 14.1 A response that exceeds the budget allocated must not be accepted. If a response exceeds the budget allocated, the Responsible Officer must obtain an additional allocation of funds in accordance with Financial Regulations before requesting approval to the outcome of the process. The following levels of approval apply:

For Supply/Services:

Activity	<p>&lt;£213k</p> <p>(Below UK Procurement Services threshold)</p> <p>(as at 01/22 £213k)</p>	£213k - £500k	£500k+
<p><b>Seek Approval to Contract</b></p>	<p><b>Head of Service</b></p> <p>A record of the request for approval can be done via email. A briefing note must be prepared. Once consultation has concluded, the HOS should complete an Officer Decision form.</p>	<p><b>Relevant Head of Service in consultation with the Corporate Leadership Team and relevant Cabinet Member(s)</b></p> <p>A record of the request for approval can be done via email. A briefing note must be prepared for the group to be consulted. Sufficient time must be given to review and provide comments. Once consultation has concluded, the HOS should complete an Officer Decision form.</p>	<p><b>Cabinet</b></p> <p>The Cabinet Report Template will be used, and the Cabinet Approval process followed.</p> <p>Responsible Officer will ensure that the requirement is placed on the Forward Plan in sufficient to reflect the agreed Procurement Timeline.</p>

The exception to the above is that for emergency social care placements, the respective Directors of Adult and Children’s Services may grant approval for placements in their respective directorates. A record of these placements must be maintained.

For Works and Concession contracts:



Activity	<£250k	£251k - £500k	£501k+
<p><b>Seek Approval to Contract</b></p>	<p><b>Head of Service</b></p> <p>A record of the request for approval can be done via email. A briefing note must be prepared. Once consultation has concluded, the HOS should complete an Officer Decision form.</p>	<p><b>Relevant Head of Service in consultation with the Corporate Leadership Team and relevant Cabinet Member(s)</b></p> <p>A record of the request for approval can be done via email. A briefing note must be prepared for the group to be consulted. Sufficient time must be given to review and provide comments. Once consultation has concluded, the HOS should complete an Officer Decision form.</p>	<p><b>Cabinet</b></p> <p>The Cabinet Report Template will be used, and the Cabinet Approval process followed.</p> <p>Responsible Officer will ensure that the requirement is placed on the Forward Plan in sufficient to reflect the agreed Procurement Timeline.</p>

Where packages of Works are part of a Programme of Works, individual approvals are required. Each proposed contract will be approved at the relevant level.

14.2 Decisions must be recorded in writing (e.g., meeting minutes/ email).

14.3 The Responsible Officer is responsible for producing a report, which must include (as proportionate to the value/ risk of the requirement as agreed with the Procurement Team). For above threshold approvals the Cabinet Report template must be used.

- Reference to the basis on which approval was given to approach the market.
- A summary of the process and the scores at each stage against the criteria.
- Confirmation that the procedure has complied with these Contract and Tendering Rules.
- A financial summary, including any savings.
- A benefits summary, referencing improvements for residents and Council's vision and priorities.
- Details of the arrangements for contract management.
- The name of the successful supplier, the length of the contract and any options for extension and the price or estimated price of the contract.

## 15 Inform the Suppliers

- 15.1 For below threshold procurements following approval and any call-in period, using the latest versions of templates from the Procurement Team, the Responsible Officer must write to inform the successful supplier of that decision. For above threshold procurements the Procurement Team will manage the communication process via the e-Procurement Portal. Letters must state that award of the contract is subject to formalisation of a contract.
- 15.2 At the same time, the Responsible Officer must write to each unsuccessful supplier, again using the template provided by the Procurement Team. Any specific content must be approved by the Procurement Team.
- 15.3 If a supplier asks for a de-briefing on why they were unsuccessful, the Responsible Officer must immediately contact the Procurement Team to agree on the de-briefing arrangements.
- 15.4 For above threshold procurements there must be a standstill period of a clear ten (10) days between advising the suppliers of the provisional outcome of the procurement process and the formal confirmation of award of contract. This is to allow bidders the opportunity to challenge the process that has been followed before contracts are entered into.

## 16 Agree/ Sign the Contract

- 16.1 The Council now uses online signature software (DocuSign) to secure contracts with suppliers. Where Procurement and/or Legal have been involved in the procurement exercise, they will coordinate contract signatures with legal services. Where the self-service process has been followed the Responsible Officer is responsible for coordinating with legal services. Both processes will result in the signed contracts being stored securely and shared to the interested parties, with the Contracts Register being updated.

Depending upon the value/ subject matter of the contract, the following applies:

For all contracts:

Activity	Under £50k & Low Risk Category	£51k - *£213k (UK Procurement Services Threshold)	>*£213k (Above Threshold)
Contract Signature	None required if Purchase Order or P Card.  If another form of contract, the Head of Service	Director	Sealed as a deed by legal services using DocuSign.

\* UK Procurement Services Threshold used for all contracts including Supply, Services, Works, and Concession Contracts.

16.2 Procurement Team will arrange for publication of a contract award notice if appropriate (in the case of contracts above the UK Procurement threshold).

16.3 The Responsible Officer must ensure that all contract documents have been signed and/or sealed as appropriate by both parties and confirmation of such provided by Legal Services (or Legal Services have agreed to the issue of a Letter of Intent) as soon as possible after contract award. The Contractor must not begin work until, either the contracts have been signed and/or sealed or the Contractor has been formally notified that they will be working on the terms and conditions as posted in the tender.

## Part 4

### During the Contract Duration

#### 1 Contract Management

1.1 The Responsible Officer will be the Contract Manager unless another officer is designated by the relevant Head of Service or Director.

1.2 The Contract Manager is responsible for:

- Ensuring that the Contract is on the Contracts register and updated with any changes made to the Contract.
- Managing the contract and ensuring that it is carried out in accordance with its terms and conditions.
- Monitoring the supplier's performance (in accordance with the performance indicators in the contract).
- Ensuring that the supplier complies with the Council's policies e.g., equal opportunities, safeguarding, counter-fraud and corruption, and whistleblowing policies, and any changes in legislation, as agreed during the procurement process.
- Ensuring that the supplier maintains the insurance policies required by the contract.
- Agreeing any minor changes to the contract (but not changes to prices) before they are carried out, and following the variation instructions in Part 4, Section 3.
- Keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the contract.
- Deducting liquidated damages, if appropriate.
- Managing the transition between the ending of one contract and the beginning of another.
- Business continuity and contingency planning.
- Ensuring that dispute resolution is followed in accordance with the terms and conditions.

1.3 The Responsible Officer must consult the Procurement Manager for consideration of the Council's legal position:

- Before any contract is terminated or suspended.
- In the event of a claim for payment not clearly within the terms and conditions of contract.
- Before withholding payment to a supplier.

- Before making any deduction from payments due to a supplier in respect of money owed to the Council.
- Before consenting to sub-contracts, assignments to new suppliers and novations to new suppliers.
- Before making any extension to a contract or variation of the scope of a contract.

## 2. Extensions to contracts

2.1 An extension to a contract is an additional period at the end of the initial fixed term of the contract, during which the works or the services to be carried out are a repetition of the works or services under the original contract.

2.2 Responsible Officer must speak to the Procurement Manager before extending a contract.

2.3 Unless a contract specifically includes an option to extend its initial fixed term, that contract may not be extended. The contract will cease to exist at the end of its term.

2.4 If a contract specifically includes an option to extend its initial fixed term the following shall apply (if applicable):

- The FTS Notice, other advertisements and the Procurement Documentation for the contract stated that an extension contract may be awarded.
- The estimated value of the contract in the FTS Notice or other advertisements took account of the potential extended contract.

If the value of the contract extension is below £500,000 the approval levels in paragraph 14.1 of Part 3 must be followed.

If the value of the contract extension is **£500,000** or more, the decision to award **the extension must be made by Cabinet.**

2.5 Legal Services must be instructed to formalise, archive and provide copies of any extensions.

2.6 An expired contract cannot be extended and must not be permitted to roll. Procurement must be consulted with adequate time to discuss future requirements. Any further agreements will be new contracts and must follow Council Contracts and Tendering Rules.

## 3. Variations to the scope of contracts

3.1 A variation to a contract is where material changes are made to the contract, e.g. add new services, change the way services are delivered, buy additional goods. Above threshold Contracts must not be varied unless variations have been anticipated within the terms of contract, by:

- The FTS Notice or other advertisements for the contract stating that a variation can/may be awarded. The Notice will describe what variations may be made.
- The estimated value of the contract in the FTS Notice or other advertisements took account of the potential variation of the contract.

For **below threshold contracts** provided that a budget has been allocated for that expenditure, value for money can be demonstrated, Procurement has been consulted, and the total contract spend (existing plus proposed) does not exceed UK Procurement thresholds the Responsible Officer may agree with a supplier for them to carry out additional works or services that were not included in the original contract but which:

- Through unforeseen circumstances have become necessary.
- Cannot for technical or economic reasons be carried out or provided separately from those included in the original contract without major inconvenience to the Council.
- The additional requirement is more of the same.

The additional works or services must not exceed 50% of the value of the original contract and be approved as per the approval levels in paragraph 14.1 of Part 3. Where Variations change values and/or dates, the Contract Register must be updated.

- 3.2 For **above threshold contracts**, unless the variation has been anticipated, the variation must be more of the same as the original contract and not greater than 10% for Services and Goods and 15% for Works of the original contract value. If the variation is not more of the same, the Procurement Team must be consulted.
- 3.3 Authorisation must be given as per approval levels in paragraph 14.1 of Part 3. If the value of the contract variation is **£500,000** or more, this is a key decision and must be placed on the Forward plan and the decision to award **the variation made by Cabinet**.
- 3.4 Legal Services must be instructed to formalise, archive and provide copies of any variations.

**Part 5****Waivers to Contract Rules**

- 1.1 A waiver to Contract and Tendering Rules is a permission to not comply with one or more of the Contract and Tendering Rules, it should be noted that waivers must be the exception and not become accepted practice. Waivers granted should be for a limited time to enable compliant contracts to be put in place.
- 1.2 Elements determined by legislation (e.g., CPR 2015 and Procurement Law) cannot be waived.
- 1.3 The table below shows the approvals necessary for waivers.

<b>Activity</b>	<b>Under £50k</b>	<b>£51k +</b>
Waiver Approved	Head of Service  Relevant Cabinet Member to have been consulted	Head of Service and Director  Relevant Cabinet Member to have been consulted

- 1.4 The relevant Cabinet Member, or if the Cabinet Member is not available another member of Cabinet must be consulted by the Responsible Officer.
- 1.5 Applications for exceptions must be made by using the online form on the Council's website. Rationale and commercial justification will be required. Finance will add commentary as to the budgetary provision for the requirement and Procurement will add commentary as to their involvement in the requirement and the potential risks posed to the Council in approving the waiver.
- 1.6 The Procurement Manager will keep a register of all Waivers to Contract and Tendering Rules and produce a summary report for the Corporate Leadership Team and the Monitoring Officer on a monthly basis. The Register will be available by appointment for inspection by Members of the Council and the public.
- 1.7 Waivers to Contract Rules will never be given retrospectively.
- 1.8 An application for a Waiver to the Contract and Tendering Rules, to allow a contract to be let without genuine competition will not be granted without a cogent reason and only for the shortest period possible. A lack of time caused by inadequate forward planning or resources is not a cogent reason and will not permit a waiver to Contract and Tendering Rules. If an application to let a contract without genuine competition is granted, the Responsible Officer responsible for the contract must demonstrate that the price obtained is not more than the market price and that the contract represents best value for money.

- 1.9 A waiver to the requirements to let a contract without genuine competition will be approved where a Director of Service considers that there is no alternative, but in making that decision they will take into consideration:
- Whether adequate market research has been evidenced, and that the proposal offers genuine good value.
  - That the requirement has been reviewed and meets the Council's requirements.
  - Whether it is a timely request, and whether sufficient time has been left to conduct a procurement exercise if rejected.
  - Whether this is a repeat request.
  - The length of contract requested, and where appropriate approve a shorter time if possible.
  - That in awarding the contract we are complying with current legislation, e.g. GDPR, Equality & Diversity, Environmental.
  - That this is a considered request and not an expedient avoidance of the Rules.
- 1.10 A specification and contract terms must be secured with the Supplier for all requirements that have been obtained via a waiver.
- 1.11 All completed waivers will be entered on to the Contracts Register.
- 1.12 For requirements that are above the UK Procurement threshold (as at January 2022), no waivers will be granted.
- Services Threshold - £213,477
  - Works and Concession Contracts Threshold - £5,336,937.

If there is continued need for the requirement, and there is insufficient time to secure a compliant contract the client will complete a waiver form with all the information required for a below threshold waiver but in addition will provide the following:

- A full project plan describing how compliance will be obtained and by when. The plan will include actions to be completed, resources required, and key parties to the plan and must be for the shortest time possible.
  - Background and explanation for the non-compliance.
- 1.13 The submission will be reviewed by the Procurement Manager, Head of Service, Director of Service and the Monitoring Officer. Once the Plan is agreed the Director of Service will be accountable for the plan being maintained.



- 1.14 If the request is £500k or more the Monitoring Officer will consult with the Chief Executive as this will require an emergency chief executive decision and be placed on the Forward Plan for Cabinet approval.
- 1.15 The agreed project plan end date will be entered onto the Contracts Register.
- 1.16 The monthly Waiver report will show all Non-Compliant Contract Project Plans that have been agreed, with the resolution date. The Head of Service and/or Director of Service will report on progress regularly.
- 1.17 It should be noted that the agreement of the Project plan and the process to obtain compliancy does not constitute a waiver, it is an acknowledgement of the non-compliance and an agreement as to how that non-compliance will be resolved. In some circumstances the non-compliance will be placed on the Council's Corporate Risk Register to monitor progress.

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# **PART 8 – OTHER RULES OF PROCEDURE**

## **B - OFFICER EMPLOYMENT PROCEDURE**

## Contents

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## **1 RECRUITMENT AND APPOINTMENT**

### **a) Declarations**

- (i) A candidate for appointment as an Officer is required to state in writing whether they are related to any Member or Senior Officer of the Council. A candidate who fails to do so shall be disqualified from such appointment and, if appointed, shall be liable for dismissal without notice. Every Councillor, Director and Officer of the Council on a Management Grade shall disclose to the Head of Human Resources any relationship known to him/her to exist between himself/ herself and the candidate for an appointment of which he/she is aware.
- (ii) Where a relationship to a Councillor is disclosed, that Councillor shall be deemed to have a personal and prejudicial interest.
- (iii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an Officer nominated by him/her.

### **b) Seeking support for appointment.**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with Council.

## **2 RECRUITMENT OF HEAD OF PAID SERVICE, DIRECTORS & DEPUTY CHIEF OFFICERS**

Where the Council proposes to appoint a Director and it is not proposed that the appointment be made exclusively from among their 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 to it; and
- c) make arrangements for a copy of the statement mentioned in paragraph i) to be sent to any person on request.

## **3 APPOINTMENT OF HEAD OF PAID SERVICE**

- a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee

or Sub-Committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.

- b) The full Council may only make or approve the appointment of the Head of Paid Service where no substantial and justified objection has been made to the appointment by any Member of the Cabinet.

#### **4 APPOINTMENT OF DIRECTORS AND DEPUTY CHIEF OFFICERS OF SERVICES**

1. Under the terms of this Constitution, the Chief Executive, the Director of Children's Services, the Director of Adult Social Services, the Chief Finance Officer (Section 151 officer) and Monitoring Officer are statutory chief officers, according to the terms of Section 2(6) Local Government and Housing Act 1989.
2. The Executive Directors and Directors are determined to be non-statutory chief officers, according to the terms of Section 2 (7) of the Local Government and Housing Act 1989.
3. Deputy Directors or "Heads of Service" are determined to be "Deputy Chief Officers" in accordance with Section 2 (8) of the Local Government and Housing Act 1989.
4. Where a Director or Deputy Chief Officer is proposed to be appointed.
  - a) Appointments Panel will appoint Directors in accordance with the provisions set out in the Local Government & Housing Act 1989.
  - b) Appointments Panel have delegated the recruitment of Deputy Chief Officers to the Head of Paid Service.
  - c) The views of the Chief Executive will always be taken into account in any appointment of a Director.

#### **5 OTHER APPOINTMENTS**

- a) **Officers below Director.** Appointment of Officers below Director or Deputy Chief Officer, (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee. In other cases, where there is significant contact with Councillors, the relevant Cabinet Member will be consulted on the selection and appointment.
- b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### **6 DISCIPLINARY ACTION**

- a) The Head of Paid Service, Chief Finance Officer (Section 151) or Monitoring Officer ('relevant officer') must not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- b) **Suspension.** The relevant officer may be suspended (in accordance with Appendix C of the Disciplinary Policy) whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and should be kept under review and, where possible, last no longer than two months.
- c)

**Investigation.** In accordance with Appendix C of the Disciplinary Policy and Procedure, any investigations into alleged misconduct will be undertaken in accordance with the Council's Disciplinary Policy & Procedure.

- d) **Dismissal.** Where the outcome of the investigation is that dismissal of the relevant officer should be a potential sanction, the Statutory Officer Panel will need to consider the matter as set out in paragraph e) below. Where the outcome of the investigation is that the recommended sanction is less than dismissal, then the matter will be dealt with in accordance with Appendix C of the Disciplinary Policy and Procedure.
- e) **Statutory Officer Panel.** The Council must appoint a Statutory Officer Panel where the investigation has determined that dismissal should be a potential sanction. The Statutory Officer Panel will have to consider the matter at least 20 working days before the relevant Council meeting, in which any recommendation made by the Statutory Officer Panel is to be ratified.
- f) The panel will consider the investigation report that has recommended dismissal, and will also undertake any such further investigations as necessary to make their decision on the recommended sanction including :
  - I. inspecting any documents relating to the conduct of the relevant officer which are in the Council's possession or which the Council has power to authorise them to inspect; and
  - II. requiring any officer or member of the Council (including the relevant officer) to answer questions concerning the conduct of the relevant officer.
- g) If the recommendation of the Statutory Officer Panel is to dismiss the relevant officer then the matter will be referred to full Council,
- h) If the recommendation of the Statutory Officer Panel is that the sanction should be less than dismissal, the matter should be referred to the Employment Appeal Sub Committee.
- i) The Statutory Officer Panel must make a report to the Council:
  - a) stating their opinion as to whether (and, if so, the extent to which) the evidence they have obtained supports the recommendation to dismiss the officer; and
  - b) must send a copy of the report to the officer concerned.
- j) Council Meeting:** Before the taking of a vote at the relevant meeting on whether or not to approve the recommended dismissal, the Council must take into account, in particular—
  - (i) any advice, views or recommendations of the Statutory Officer Panel;

- (ii) the conclusions of any investigation into the proposed dismissal;  
and
- (iii) any representations from the relevant officer.

## 7 DISMISSAL

- a) Councillors will not be involved in the dismissal of any Officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.
- b) The dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 Officer) and Monitoring Officer subject to 6 above, must be approved by full Council.
- c) Notice of dismissal to the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer (Section 151 Officer), Statutory Chief Officers and non-Statutory Chief Officers or Deputy Chief Officers must not be given by the dismissor (subject to 6 above) until:
  - i) the dismissor has notified the Proper Officer (Monitoring Officer) of the name of the person the dismissor wishes to dismiss and any relevant particulars;
  - ii) the Proper Officer has notified every member of the Executive of the Council of:
    - 1. the name of the person it is wished to dismiss;
    - 2. any relevant particulars;
    - 3. the period within which any objections to the dismissal are to be made by the Leader to the Proper Officer on behalf of the Executive; and
  - iii) either:
    - 1. the Leader has, within the specified period, notified the dismissor that neither he nor any member of the Executive has any objection to the dismissal; or
    - 2. the Proper Officer has notified the dismissor that no objection has been received by him from the Leader, or the dismissor is satisfied that any objection received from the Leader within the period is not material or well founded.

## 8 OFFERS OF APPOINTMENT

Any offer of employment to the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, any Director or Deputy Chief Officer (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall not be made until:

- a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any relevant particulars;
- b) the Proper Officer has notified every member of the Council's Executive of:



- i) the name of the person to whom the appointor wishes to offer the post;
  - ii) any other relevant particulars;
  - iii) the period in which any objections to making the offer must be made by the Leader to the Proper Officer on behalf of the Executive; and
- c) either:
- i) the Leader has, within the specified period, notified the appointor that neither he nor any member of the Executive has any objections;
  - ii) the Proper Officer has notified the appointor no objections have been received by him from the Leader; or
  - iii) the appointor is satisfied any objection received from the Leader within the period is not material or is not well founded.

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# **PART 8 – OTHER RULES OF PROCEDURE**

## **C – FINANCE PROCEDURE RULES**

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**STATUS OF FINANCE RULES**

- 1.1 Finance Rules provide the framework for managing the authority's financial affairs. Chief Executive They apply to every Member and officer of the authority and anyone acting on its behalf.
- 1.2 The rules identify the financial responsibilities of the Council, Cabinet and other Members, the (as Head of Paid Service), the Monitoring Officer, the Director of Resources (as s151 officer) and the Directors and staff.
- 1.3 Cabinet Members and Directors should maintain a written record where decision making has been delegated to them or for Directors to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, such as school governors, references to the Director in the rules should be read as referring to them.<sup>1</sup>
- 1.4 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.5 The Director of Resources is the Council's Statutory S151 officer with responsibility for the proper administration of the Council's financial affairs, under Section 151 of the Local Government Act 1972. The Director of Resources works closely with the Monitoring Officer to enable them to fulfil this role.
- 1.6 The Finance Rules play an important role in assisting the Director of Resources to fulfil these statutory responsibilities. The authority's detailed financial procedures, setting out how the rules will be implemented, are contained in the appendices to the Finance Rules.
- 1.7 The Director of Resources will keep these rules under review and advise the Council on any necessary changes to them.
- 1.8 The Director of Resources is responsible for issuing advice and guidance to underpin the Finance Rules that Members, officers and others acting on behalf of the authority are required to follow.
- 1.9 The Director of Resources is responsible for reporting, where appropriate, any breaches of the Finance rules to the Council or Cabinet.
- 1.10 Directors are responsible for ensuring that all staff in their Directorates are aware of the existence and content of the authority's Finance Rules and other internal regulatory documents and that they comply with them.
- 1.11 Schools have a separate scheme of delegation in respect of financial matters, the Scheme of Financial Management of Schools.

## **FINANCE RULE A: FINANCIAL MANAGEMENT**

### **RULE IN SUMMARY**

#### **Introduction**

- A.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

#### **The Council**

- A.2 The Council is responsible for adopting the authority's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its Constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated, and decisions taken by the Council and its panels and committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

#### **The Cabinet**

- A.4 The Cabinet is responsible for reviewing and proposing the policy framework and budget to the Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
- A.5 Cabinet decisions can be delegated to a committee of the Cabinet, an individual Cabinet Member, an officer or a joint committee.
- A.6 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

#### **Directors**

- A.7 Directors are responsible for:
- ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Resources
  - signing contracts on behalf of the authority in accordance with the Contract Procedures Rules 8A 16.1
- A.8 It is the responsibility of Directors to consult with the Director of Resources and seek approval on any matter liable to exceed their delegated authority to vire between

budget heads or in any other way affect the authority's finances materially, before any commitments are incurred.

## **OTHER FINANCIAL ACCOUNTABILITIES**

### **Virement**

- A.9 The Council is responsible for agreeing procedures for virement of expenditure between budget headings.

### **Treatment of year-end balances**

- A.10 The Cabinet is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

### **Accounting policies**

- A.11 The Director of Resources is responsible for setting accounting policies and ensuring that they are applied consistently.

### **Accounting records and returns**

- A.12 The Director of Resources is responsible for determining the accounting procedures and records for the authority.

### **The annual statement of Accounts**

- A.13 The Director of Resources 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). The Audit and Governance Committee is responsible for approving the annual statement of accounts, including the Statement of Internal Control.

**APPENDIX A****FINANCIAL MANAGEMENT****DETAILED RULES****FINANCIAL MANAGEMENT STANDARDS****Why is this important?**

F1.01 All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

**Key controls**

F1.02 The key controls and control objectives for financial management standards are:  
(a) their promotion throughout the authority  
(b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and Council.

**Responsibilities of the Director of Resources**

- F1.03 To ensure the proper administration of the financial affairs of the authority.
- F1.04 To set the financial management standards and to monitor compliance with them.
- F1.05 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance, and development of finance staff throughout the authority.
- F1.06 To advise on the key strategic controls necessary to secure sound financial management.
- F1.07 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

**Responsibilities of Directors**

- F1.08 To promote the financial management standards set by the Director of Resources in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Director of Resources.
- F1.09 To promote sound financial practices in relation to the standards, performance and development of staff in their Directorates.



## MANAGING EXPENDITURE

### Scheme of Virement

#### Why is this important?

F1.10 The scheme of virement is intended to enable the Cabinet, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources.

#### Key controls

F1.11 Key controls for the scheme of virement are:

- (a) it is administered by the Director of Resources within guidelines set by the Council. Any variation from this scheme requires the approval of the Council
- (b) the overall budget is agreed by the Council. Directors and Heads of Service are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved budget report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.
- (c) virement does not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.

#### Responsibilities of the Director of Resources

F1.12 To prepare jointly with the relevant Director a report to the Cabinet where virements in excess of £100,000 are proposed up to a limit of £500,000

F1.13 To consult with the Chief Executive, where virements in excess of £25,000 are proposed up to a limit of £100,000 as detailed in Part 3A section 5a.

#### Responsibilities of Directors

F1.14 A Director may exercise virement on budgets under his or her control for amounts up to **£25,000** on any one budget head during the year, following notification to the Director of Resources under arrangements agreed by the Council and subject to the conditions in paragraphs 1.15 to 1.20 below. (This measure includes the transfer of budget from income targets to fund additional expenditure).

- F1.15 Amounts between £25,001 and £100,000 can be vired with the agreement of the Director of Resources and Chief Executive, amounts greater than £100,001 up to £500,000, require the approval of the Cabinet, following a joint report by the relevant Director and Director of Resources, in consultation with the Cabinet Member for the relevant service area and the Cabinet Member for Finance, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Amounts greater than £500,000 will be referred to Council as they are outside the Policy and Budget Framework and the Cabinet Member will be informed.
- F1.16 The prior approval of the Cabinet is required for any virement over £25,000, where it is proposed to:
- vire between budgets within the remit of different accountable Cabinet Members.
  - vire between budgets managed by different Directors.
- F1.17 Virement that is likely to impact on the level of service activity of another Director should be implemented only after agreement with the relevant Director.
- F1.18 No virement relating to a specific financial year should be made after 31 March in that year.
- F1.19 A school's governing body may transfer budget provision between heads of expenditure within the delegated school budget following notification to the Director of Children's Services.
- F1.20 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (a) the amount is used in accordance with the purposes for which it has been established
  - (b) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

## **Treatment of Year-End Balances**

### **Why is this important?**

- F1.21 The authority's scheme of virement sets out the authority's treatment of year-end balances. It is administered by the Director of Resources within guidelines set by the Council. Any variation from the scheme of virement (as set out above) requires the approval of the Council.
- F1.22 The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carry-forward. For the purposes of this scheme, a budget heading is a line in the budget report.

**Key controls**

- F1.23 Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

**Responsibilities of the Director of Resources**

- F1.24 To seek the approval of the Cabinet to the proposed carry-forward of resources and addition to or use of reserves at the year end.
- F1.25 To report all overspending and under-spending on service estimates carried forward to the Cabinet.

**Responsibilities of Directors**

- F1.26 Net under-spending on service estimates under the control of the Director will not usually be able to be carried forward. In exceptional circumstances this may be done, subject to the approval of the Director of Resources and reporting to the Cabinet the source of underspending or additional income and the proposed application of those resources.
- F1.27 All internal unit and service surpluses shall be retained for the benefit of the authority and their application shall require the approval of the Cabinet.
- F1.28 Schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Cabinet member concerned, following evaluation by the Director of Children's Services and the Director of Resources. Schools will normally be expected to agree a plan to recover the deficit within a defined period which must be within any limit defined by statute.
- F1.29 In exceptional circumstances, schools may seek to incur expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the Director of Children's Services, in consultation with the Director of Resources. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

## ACCOUNTING POLICIES

### Why is this important?

F1.30 The Director of Resources is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

### Key controls

F1.31 The key controls for accounting policies are:

- 2(a) systems of internal control are in place that ensure that financial transactions are lawful
- (b) suitable accounting policies are selected and applied consistently
- (c) proper accounting records are maintained
- (d) financial statements are prepared which give a "true and fair" view of the financial position and transactions of the local authority.

### Responsibilities of the Director of Resources

F1.32 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (i) deferred charges
- (j) accounting for value added tax
- (k) government grants
- (l) leasing
- (m) pensions.

### Responsibilities of Directors

F1.33 To adhere to the accounting policies and guidelines approved by the Director of Resources.

## ACCOUNTING RECORDS AND RETURNS

### Why is this important?

F1.34 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency, and effectiveness in the use of the authority's resources. The Council is required to comply with timetables set out by the Ministry for Housing, Communities and Local Government that are required to meet the "whole of Government Accounts" regime.

### Key controls

F1.35 The key controls for accounting records and returns are:

- (a) all Cabinet Members, finance staff and budget managers operate within the required accounting standards and timetables
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) prime documents are retained in accordance with legislative and other requirements.

### Responsibilities of the Director of Resources

F1.36 To determine the accounting procedures and records for the authority. Where these are maintained outside the Directorate within which the finance team reside, the Director of Resources should consult the Director concerned.

F1.37 To arrange for the compilation of all accounts and accounting records under his or her direction.

F1.38 To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

F1.39 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2015.

F1.40 To ensure that all claims for funds including grants are made by the due date.

- F1.41 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the Audit and Governance Committee to approve the statement of accounts within that timetable before they are submitted for audit.
- F1.42 To administer the authority's arrangements for under- and overspendings to be carried forward to the following financial year.
- F1.43 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.
- F1.44 To access, as necessary, financial information held by and in respect of schools and to make any returns required to government agencies. Headteachers will ensure that the Director of Resources is given access as required.

### **Responsibilities of Directors**

- F1.45 To consult and obtain the approval of the Director of Resources before making any changes to accounting records and procedures.
- F1.46 To comply with the principles outlined in paragraph 1.38 when allocating accounting duties.
- F1.47 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- F1.48 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Director of Resources.

## **THE ANNUAL STATEMENT OF ACCOUNTS**

### **Why is this important?**

- F1.49 The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit and Governance Committee is responsible for approving the statutory annual statement of accounts.

### **Key controls**

- F1.50 The key controls for the annual statement of accounts are:
- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Director of Resources
  - the authority's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: (the COPLAA) (CIPFA/LASAAC)*.

- the authority is required to prepare an Annual Governance Statement to accompany the annual statement of accounts as set out in the Accounts and Audit Regulations 2015.

### **Responsibilities of the Director of Resources**

- F1.51 To select suitable accounting policies and to apply them consistently.
- F1.52 To make judgements and estimates that are reasonable and prudent.
- F1.53 To comply with the COPLAA.
- F1.54 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for each year ended 31 March.
- F1.55 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.
- F1.56 To contribute to the production of the Annual Governance Statement and to implement any relevant actions.

### **Responsibilities of Directors**

- F1.57 To comply with accounting guidance provided by the Director of Resources and to supply the Director of Resources with information when required.

### **Responsibilities of the Monitoring Officer**

- F1.58 To prepare an Annual Governance Statement in consultation with the Chief Executive and Director of Resources and keep under review the actions agreed within the statement to achieve a system of sound corporate governance.

### **Responsibilities of the Leader and Chief Executive**

- F1.59 To review and approve an Annual Governance Statement, which will accompany the annual statement of accounts in accordance with the Accounts and Audit Regulations 2015.

### **Responsibilities of the Chairman of the Audit and Governance Committee**

- F1.60 To sign the Annual Statement of Accounts, in accordance with the Accounts and Audit Regulations 2015

### **Responsibilities of the Audit and Governance Committee**

- F1.61 To review and authorise the Chairman to sign the Annual Statement of Accounts, in accordance with the Accounts and Audit Regulations 2015

- F1.62 To review and recommend the Annual Governance Statement prior to agreement and final sign-off by the Leader and Chief Executive.
- F1.63 To receive the report of the External Auditor under ISA260 to fulfil their responsibility for oversight of the financial reporting process and governance requirements



## **FINANCE RULE B: FINANCIAL PLANNING**

### **RULE IN SUMMARY**

#### **INTRODUCTION**

- B.1** The Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- the revenue budget, incorporating the elements referred in Article 4.01 b) and associated medium term financial strategy
  - the capital programme and associated capital strategy
  - the prudential indicators and associated Treasury Management Strategy

#### **Policy Framework**

- B.2** The Council is responsible for approving the policy framework and budget. The policy framework comprises the plans and strategies set out in Part 3B of the Constitution and the Budget.
- Corporate Plan  
Medium Term Financial Strategy (incorporating the Medium-Term Financial Plan)  
Reserves Strategy  
Capital Strategy  
Treasury Management Strategy  
Asset Management Plan
- B.3** The provisions of section 25, Local Government Act 2003 require that, when the Council is making the calculation of its budget requirement, it must have regard to the report of the Chief Finance (section 151) Officer as to the robustness of the estimates made for the purposes of the calculations and the adequacy of the proposed financial reserves.
- B.4** The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the Council by the Monitoring Officer
- B.5** The Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities to deliver the budget policy framework within the financial limits set by the Council.

## **BUDGETING**

### **Budget format**

- B.6** The general format of the budget will be approved by the Cabinet on the advice of the Director of Resources. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

### **Budget preparation**

- B.7** The Director of Resources is responsible for ensuring that a revenue budget is prepared on an annual basis together with an updated financial strategy incorporating a medium term financial plan, which projects council spending for 5 years for consideration by the Cabinet, before submission to the Council. The Council may amend the budget or ask the Cabinet to reconsider it before approving it.
- B.8** The Cabinet is responsible for developing the Policy framework and associated budget plans prior to consideration by the Council.
- B.9** It is the responsibility of Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet and Director of Resources.

### **Budget monitoring and control**

- B.10** The Director of Resources is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position at least quarterly.
- B.11** It is the responsibility of Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Resources. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Resources to any problems immediately they become known.

### **Resource allocation**

- B.12** The Director of Resources is responsible for developing and maintaining a resource allocation process that produces budget targets that supports the implementation of the Council's policy framework.

## **Budget Guidelines**

**B.13** Guidelines on budget preparation are issued to Members and Directors by the Cabinet following agreement with the Director of Resources. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- available resources
- spending pressures
- best value and other relevant government guidelines
- other internal policy documents
- cross-cutting issues (where relevant).
- results of consultations carried out
- results of exercises to prioritise budget proposals

## **MAINTENANCE OF RESERVES**

**B.14** The Director of Resources is responsible for advising the Council on the adequacy of Council Reserves. This is a statutory responsibility under section 25 of the Local Government Act 2003. The Council must pay due regard to this report when they set the annual revenue budget.

**B.15** The Director of Resources is required to issue a S114 report under Local Government Finance Act 1988, where they consider that the Council does not have sufficient resources, including financial reserves to set a balanced budget for the following year.

## **CAPITAL PROGRAMME**

### **Preparation and revision of the capital programme**

**B.16** The Cabinet is responsible for developing the Capital Strategy and considering and prioritising business cases for capital schemes as it develops the Capital Programme prior to consideration by the Council.

**B.17** The Director of Resources is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Cabinet before submission to the Council.

**B.18** It is the responsibility of Directors to ensure that business cases for Capital Schemes are submitted to the Cabinet in line with guidance issued by the Cabinet and Director of Resources.

### **Capital Programme Gateway Process**

**B.19** The development, approval and implementation of capital projects is subject to a Gateway Process. This is a key control for Capital Projects and includes.

- (a) **A Project Mandate** to provide a brief preliminary description of the project and is designed to introduce the basic project concept and identify key issues at the earliest stages of project development.
- (b) **An outline business case** will be prepared at the project initiation stage prior to submission as part of the annual capital programme development process. This will set out the projected costs, risks and benefits associated with the project in a form prescribed by the Director of Resources. Funding decisions will be based on the information contained within this process.
- (c) **A full business case** will then be prepared once a project has been approved and prior to the commitment of significant project (contract) resources. This will provide a clearer estimate more detailed estimate of project costs and benefits together with a more up to date assessment of project risks. The final approval to proceed with the project will be based on this business case.

## TREASURY MANAGEMENT

- B.20** The authority has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*.
- B.21** The Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's *Code of Practice for Treasury Management in Local Authorities*. The policy statement is proposed to the Council by the Cabinet. The Director of Resources has delegated responsibility for implementing and monitoring the statement.
- B.22** All money in the hands of the authority is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Director of Resources.
- B.23** The Director of Resources is responsible for reporting to the Council ~~Cabinet~~ a proposed treasury management strategy for the coming financial year as part of the annual budget setting process. ~~at or before the start of each financial year.~~
- B.24** All Cabinet decisions on borrowing, investment or financing shall be delegated to the Director of Resources, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Local Authorities*.
- B.25** The Director of Resources shall advise the Council on any long-term borrowing requirements necessary to finance the Capital Programme. The Director of Resources can only make these decisions within the parameters set out within the Treasury Management Strategy.
- B.26** The Director of Resources is responsible for reporting to the Audit and Governance Committee and Cabinet in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers on at least a half yearly basis.

**FINANCIAL PLANNING****APPENDIX B****DETAILED RULES****PERFORMANCE PLANS****Why is this important?**

F2.01 Each local authority has a statutory responsibility to publish various performance plans. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

**Key controls**

F2.02 The key controls for performance plans are:

- (a) to ensure that all relevant plans are produced and that they are consistent with the Authority's overall policy framework
- (b) to produce plans in accordance with statutory requirements
- (c) to meet the timetables set
- (d) to ensure that all performance information is accurate, complete and up to date
- (e) to provide improvement targets which are meaningful, realistic and challenging.

**Responsibilities of the Director of Resources**

F2.03 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

F2.04 To contribute to the development of corporate and service targets and objectives and performance information in accordance with the priorities of the Authority.

F2.05 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

F2.06 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

**Responsibilities of Directors**

F2.07 To contribute to the development of performance plans in line with statutory requirements.

F2.08 To contribute to the development of corporate and service targets and objectives and performance information.

## **BUDGETING**

### **Format of the budget**

#### **Why is this important?**

F2.09 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### **Key controls**

F2.10 The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with CIPFA's Service Reporting Code of Practice for Local Authorities (**SeRCOP**)
- (c) the format reflects the accountabilities of service delivery.

#### **Responsibilities of the Director of Resources**

F2.11 To advise the Cabinet on the format of the budget that is approved by the Council.

#### **Responsibilities of Directors**

F2.12 To comply with accounting guidance provided by the Director of Resources.

### **Revenue Budget Preparation, Monitoring and Control**

#### **Why is this important?**

F2.13 Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

F2.14 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

F2.15 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required.

## Key controls

- F2.16 The key controls for managing and controlling the revenue budget are that:
- (a) service heads should be responsible only for income and expenditure that they can influence
  - (b) there is a nominated unit/service manager for each cost centre heading
  - (c) service heads accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
  - (d) service heads follow an approved certification process for all expenditure
  - (e) income and expenditure are properly recorded and accounted for
  - (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
  - (g) financial awareness of budget holders is promoted by training and support from the finance department.

## Responsibilities of the Director of Resources

- F2.17 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual cash limits unless the Council agrees otherwise
  - (b) each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - (c) expenditure is committed only against an approved budget head
  - (d) all officers responsible for committing expenditure comply with relevant guidance, and the Finance Rules
  - (e) each cost centre has a single named manager, determined by the relevant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
  - (f) significant variances from approved budgets are investigated and reported by budget managers monthly in accordance with agreed timetable
  - (g) each capital project has a designated Project Manager responsible for the delivery of that project to time and within budget.
  - (h) budget holders have adequate support and training so that they understand their responsibilities in managing the budgets allocated to them.
- F2.18 To administer the authority's scheme of virement.
- F2.19 To submit reports to the Cabinet and to the Council, in consultation with the relevant Director, where a Director is unable to balance expenditure and resources within existing approved budgets under his or her control.
- F2.20 To prepare and submit reports to Cabinet on the authority's projected income and expenditure compared with the budget on at least a quarterly basis.

## **Responsibilities of Directors**

- F2.21 To maintain budgetary control within their Directorates, in adherence to the principles in 2.17, and to ensure that all income and expenditure are properly recorded and accounted for.
- F2.22 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- F2.23 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- F2.24 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- F2.25 To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the Director of Resources and setting out what actions the Director proposes to take to remedy any overspendings that may have occurred.
- F2.26 To ensure prior approval by the Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
- (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies, or cease existing policies
  - (c) materially extend or reduce the authority's services
  - (d) a report on new proposals should explain the full financial implications, following consultation with the Director of Resources. Unless the Council or Cabinet has agreed otherwise, Directors must plan to contain the financial implications of such proposals within their cash limit
- F2.27 To ensure compliance with the scheme of virement.
- F2.28 To agree with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director's level of service activity.

## **Budgets and Medium-Term Planning**

### **Why is this important?**

- F2.29 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.



- F2.30 The revenue budget must be constructed to ensure that resource allocation reflects the service plans and priorities of the Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor, and control the way money is allocated and spent. It is illegal for an authority to set a budget that it cannot fully finance from its annual income and reserves.
- F2.31 Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance. The Authority has a five-year medium-term financial plan setting out its estimates of revenue expenditure over that time span.

### **Key controls**

- F2.32 The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
  - (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered
  - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of the Director of Resources**

- F2.33 To prepare and keep under review the Authority's medium-term financial strategy and medium-term financial plan
- F2.34 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should set out the impact on medium term financial projections.
- F2.35 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Council, and after consultation with the Cabinet and Directors.
- F2.36 To prepare and submit reports to the Cabinet on the aggregate spending plans of Directorates and on the resources available to fund them, identifying, where appropriate, the implications for the level of Reserves and the Council tax to be levied.
- F2.37 To advise on the medium-term implications of spending decisions.
- F2.38 To encourage the best use of resources and value for money by working with Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

F2.39 To advise the Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

### **Responsibilities of Directors**

- F2.40 To prepare estimates of income and expenditure, in consultation with the Director of Resources, to be submitted to the Cabinet.
- F2.41 To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Director of Resources in accordance with the Authority's general directions.
- F2.42 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- F2.43 In consultation with the Director of Resources and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by Cabinet.
- F2.44 When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements (including health and safety)
  - (c) policy requirements and priorities as defined by the Council in the approved policy framework
  - (d) initiatives already under way.

### **Resource Allocation**

#### **Why is this important?**

F2.45 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

#### **Key controls**

- F2.46 The key controls for resource allocation are:
- (a) resources are acquired in accordance with the law and using an approved authorisation process
  - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
  - (c) resources are securely held for use when required
  - (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

## Responsibilities of the Director of Resources

- F2.47 To advise the Authority on any options that may exist to increase resources available to it.
- F2.48 To advise the Authority on the totality of resources available to it.
- F2.49 To assist in the allocation of resources to unit/service managers.

## Responsibilities of Directors

- F2.50 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective, and economic way.
- F2.51 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## MAINTENANCE OF RESERVES

### Why is this important?

- F2.52 Reserves play an important role in managing the Authority's finances. Councils hold reserves for the following reasons:
- a) **Covering unforeseen spending pressures** – for example a major flood or other incident could have a big, uninsurable, impact on council services. This would place undue pressure on the current year's budget.
  - b) **Manage general risk and uncertainty** – councils operate in very uncertain times, where there can be significant changes to in year funding. This means that Council's need to hold reserves to protect themselves against big funding shifts and buy them time to bring their budget into balance.
  - c) **Meeting known risks and future commitments** – often these are known as earmarked reserves. These are reserves held for a specific purpose, for example an insurance reserve.
  - d) **Holding monies on behalf of other bodies** – the schools revenue balances are an example of this.

### Key Controls

- F2.53 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*: (the COPLAA) (CIPFA/LASAAC) and agreed accounting policies.
- F.2.54 To prepare and keep under review a reserves strategy including an annual risk-based assessment of the potential financial consequences of risks facing the Council.
- F2.55 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

- F2.56 Authorisation and expenditure from reserves by the appropriate Director in consultation with the Director of Resources.

### **Responsibilities of the Council**

- F.2.57 To approve the annual reserves strategy
- F.2.58 To ensure that the Authority maintains a minimum level of reserves that provide adequate protection for the potential financial and business risks that it faces as advised by the Director of Resources.
- F.2.59 To approve the creation of new Council reserves as part of the budget process

### **Responsibilities of the Cabinet**

- F.2.60 To agree the end of year allocation of resources to and from reserves as part of the closure of the Council Accounts.
- F.2.61 To monitor the level of reserves during the financial year

### **Responsibilities of the Director of Resources**

- F.2.62 To advise the Council on the adequacy of Council Reserves. This is a statutory responsibility under section 25 of the Local Government Act 2003. The Council must pay due regard to this report when they set the annual revenue budget.
- F.2.63 To prepare a Reserves Strategy
- F.2.64 To approve the creation of new reserves where money is held on behalf of other bodies.
- F.2.65 To issue a S114 report under Local Government Finance Act 1988, where they consider that the Council does not have sufficient resources, including financial reserves to set a balanced budget for the following year.
- F.2.66 To provide a monitoring statement at least quarterly to the Cabinet on the current and projected level of reserves
- F.2.67 To seek the approval of Cabinet for the use of reserves if this is not in line with their stated purpose

### **Responsibilities of Directors**

- F.2.68 To seek the approval of the Director of Resources to hold money on behalf of other bodies
- F.2.69 To seek the approval of the Director of Resources to use Council reserves
- F.2.70 To ensure that resources held within reserves are used only for the purposes for which they were intended

## CAPITAL PROGRAMME

### Why is this important?

- F2.71 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of intangible assets, plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- F2.72 The “Prudential Code for Capital Finance in Local Authorities” places a duty on the Authority to ensure that its proposals to finance its capital programme are affordable, both in the short and long term. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

### Key controls

- F2.73 The key controls for capital programmes are:
- (a) specific approval by the Council of the Capital Strategy and programme of capital expenditure.
  - (b) approval to enter a commitment on capital schemes is subject to a gateway process and the approvals detailed in Part 8A section 14.1.
  - (c) scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project.
  - (d) the scheme has been assessed under the Council’s Prioritisation Scheme and been approved for implementation by the Cabinet.
  - (e) approval by the Cabinet where capital schemes are to be financed from the revenue budget, **up to £500,000**, and subject to the approval of the Council, where the expenditure exceeds this amount
  - (f) proposals for improvements and alterations to buildings must be approved by **the relevant Director**.
  - (g) schedules for individual schemes within the overall budget approved by the Council must be submitted to the Cabinet for approval (for example, minor works), or under other arrangements approved by the Council
  - (h) the development and implementation of asset management plans
  - (i) the development and implementation of a Capital Strategy
  - (j) accountability for each proposal is accepted by a named manager
  - (k) monitoring of progress in conjunction with expenditure and comparison with approved budget.

### Responsibilities of the Council

- F.2.74 To consider and approve the Capital Strategy for the Council
- F.2.75 To agree the Capital Programme and indicative five-year capital programme
- F.2.76 To agree the funding arrangements that support the Capital Programme subject to the provisions of C15

- F.2.77 To agree substantial changes to the capital programme that involve additional spending in excess of £500,000.
- F.2.78 To receive a half yearly report on the delivery of the Capital Programme and in year financial monitoring of Capital Spending.

### **Responsibilities of the Cabinet**

- F.2.79 To review and keep under review the Capital Strategy
- F.2.80 To oversee the development of proposals for the Capital Programme and indicative five-year capital programme prior to consideration and approval by the Council.
- F.2.81 To consider and prioritise all capital bids prior for inclusion within the Capital Programme.
- F.2.82 To consider options for the funding of the Capital Programme before submitting proposals for approval by Council
- F.2.83 To agree in-year changes to the Capital Programme that can be accommodated within the in-year Capital Programme resources, subject to the advice of the Director of Resources
- F.2.84 To agree in-year changes to the Capital Programme up to the value of £500,000 in total, subject to no single scheme exceeding £250,000
- F.2.85 To consider detailed monitoring reports on Capital Spend across all Capital Projects, as submitted by the Director of Resources at least on a quarterly basis.
- F.2.86 To agree all new business plans for capital projects based on a format approved by the Director of Resources
- F.2.87 To approve the carry-forward of unspent capital programme resources, after considering proposals within an out-turn report from the Director of Resources setting out the end of year Capital Programme position.

### **Responsibilities of the Director of Resources**

- F.2.88 To prepare and keep under review the Capital Strategy in Consultation with the Chief Executive and Directors
- F.2.89 To advise the Capital Programme Board on any changes to the Gateway Process
- F.2.90 To co-ordinate the production of the Capital Programme and five-year capital programme.
- F.2.91 To ensure that all new Capital Projects are supported by a business case prior to inclusion within the Capital Programme based on a format prescribed by the Director of Resources

- F.2.92 To establish a business case format that will include a financial assessment of the costs, benefits, and associated risks for each project.
- F.2.93 To advise the Cabinet and Council on options for funding the Capital Programme and their impact on Medium-Term Financial Plans
- F.2.94 To submit standalone detailed quarterly monitoring reports, covering all capital schemes to the Cabinet, including details of all proposed virements between schemes.
- F.2.95 To identify and recover by way of a virement out of the capital project in question, any underspending compared to budget that is identified before the start of or during the implementation of the project.
- F.2.96 To submit half-yearly monitoring reports to the Council, including details of all proposed virements or additional spending over £500,000.
- F.2.97 To define “capital” with regard to government legislation and accounting requirements.
- F.2.98 To set a de-minimis level to ensure that the capital programme is not used to finance small schemes that should be funded from the revenue budget – the de-minimis level is currently £20,000,

### **Responsibilities of Directors**

- F.2.99 To comply with guidance concerning capital schemes and controls issued by the Director of Resources.
- F.2.100 To develop business cases for new capital schemes in a format prescribed by the Director of Resources
- F.2.101 To consult the Director of Resources on the financial implications of Capital Projects
- F.2.102 To comply with the Gateway Process for the development and management of capital projects
- F.2.103 To ensure that an appropriate risk assessment is carried out for each capital projects
- F.2.104 To ensure that adequate records are maintained for all capital contracts
- F.2.105 To proceed with projects only when there is adequate provision in the capital programme and with approvals, where required as detailed in Part 8A section 14.1.
- F.2.106 To allocate a lead officer in their department for each capital scheme with a sufficient level of seniority appropriate to the project

- F.2.107 To put in place appropriate project or programme management arrangements to ensure the effective delivery of the project.
- F.2.108 To engage with the monthly capital monitoring process including highlighting any new or emerging financial considerations or risks associated with the project.
- F.2.109 To prepare and submit reports, jointly with the Director of Resources, to the Cabinet, of any variation in contract costs greater than the approved limits. The Cabinet may meet cost increases of up to 5% by virement from savings elsewhere within their capital programme.
- F.2.110 To prepare and submit reports, jointly with the Director of Resources, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than 5% or £10,000 whichever is the higher amount.
- F.2.111 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Director of Resources and, if applicable, approval of the scheme through the capital programme.
- F.2.112 To consult with the Director of Resources and to seek Cabinet approval where the Director proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.
- F.2.113 To notify the Director of Resources of any underspending compared to budget that occur before the start of or during implementation of the project.

### **Responsibilities of the Capital Programme Board**

- F.2.114 Developing and overseeing the gateway process for new and approved capital projects as set out below, based on the advice of the Director of Resources
- F.2.115 Reviewing progress on all Capital Projects in detail on at least a quarterly basis
- F.2.116 Identify dependencies and risks between individual schemes within the capital programme and ensure action is taken to address these.
- F.2.117 Where resources have been allocated for a programme of works individual approval will not be required for each project within the programme but will be based on the submission of the whole programme.

## **TREASURY MANAGEMENT**

### **Why is this important?**

- F2.118 Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but



with the overriding consideration being given to the security of the authority's investments.

### **Key controls**

F2.119 That the authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management* and with the authority's treasury policy statement.

### **Responsibilities of Director of Resources – treasury management and banking**

F2.120 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.

F2.121 To report at least twice per year on treasury management activities to the Audit and Governance Committee and Cabinet.

F2.123 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Director of Resources.

### **Responsibilities of Directors – treasury management and banking**

F2.124 To follow the instructions on banking issued by the Director of Resources.

## **FINANCE RULE C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **RULES IN SUMMARY**

#### **Introduction**

- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

#### **RISK MANAGEMENT**

- C.2** No organisation can eliminate risk completely. Organisations must understand the risks that they face and take steps to manage risks effectively. At the same time, they also need to make sure that they have appropriate reserves and insurance in place to protect them from the financial consequences of these risks.
- C.3** The Cabinet manages this process based on advice provided by the Director of Resources. Effective risk management requires the co-operation and involvement of all Directors and the staff that they manage.

#### **INTERNAL CONTROL**

- C.4** Internal control refers to the systems of control devised by management to help ensure public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.5** The Director of Resources is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.
- C.6** It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising, and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **AUDIT REQUIREMENTS**

- C.7** The Accounts and Audit Regulations 2015 requires every local authority to maintain an adequate and effective internal audit.
- C.8** Internal Audit plays an essential role in enabling the Director of Resources to fulfil their responsibility for ensuring the proper administration of the Council's financial affairs under S151 of the Local Government Finance Act 1972.
- C.9** The Council is responsible for making arrangements to appoint external auditors under the Local Audit and Accountability Act 2014.

- C.10** The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## **PREVENTING FRAUD AND CORRUPTION**

- C.11** The Director of Resources is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- C.12** The Director of Resources is responsible for the development and maintenance of a whistle blowing policy.

## **ASSETS**

- C.13** Directors should 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.

## **LOAN AND INVESTMENTS STAFFING**

- C.15** The Council is ultimately responsible for determining how officer support for executive and non-executive roles within the authority will be organised.
- C.16** The Chief Executive is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.17** The Director of Resources is responsible for ensuring that staffing budgets are affordable and that any decision to vary the establishment is affordable in both the short and medium term.
- C.18** Directors are responsible for controlling total staff numbers by:
- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - adjusting the staffing to a level that can be funded within approved budget provision or varying the provision as necessary within that constraint in order to meet changing operational needs subject to consultation with the Director of Resources to ensure that this is affordable.
  - the proper use of appointment procedures.

**APPENDIX C****RISK MANAGEMENT AND CONTROL OF RESOURCES****DETAILED RULES****RISK MANAGEMENT****Why is this important?**

F3.01 All organisations, whether private or public sector, face risks to people, property and continued operations.

**Risk** is the chance or possibility of loss, damage, injury, or failure to achieve objectives caused by an unwanted or uncertain action or event.

**Risk management** is the planned and systematic approach to the identification, evaluation, and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation.

It is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

F3.02 It is the overall responsibility of the Cabinet, advised by the Director of Resources to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

**Key controls**

- F3.03 The key controls for risk management are:
- (a) a risk management strategy setting out the council's approach to managing risks.
  - (b) procedures are in place to identify, assess, prevent, or contain material known risks, and these procedures are operating effectively throughout the authority
  - (c) a monitoring process is in place to regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
  - (d) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
  - (e) acceptable levels of risk are determined and insured against where appropriate
  - (f) provision is made for losses that might result from the risks that remain
  - (g) procedures are in place to investigate claims within required timescales
  - (h) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

**Responsibilities of the Cabinet.**

- F.3.04 To approve the authority's risk management policy statement and strategy
- F.3.05 To agree insurance arrangements for the Council based on the advice of the Director of Resources.

**Responsibility of the Audit and Governance Committee**

- F3.06 To oversee the effectiveness of the risk management process based on a report submitted by the Director of Resources
- F3.07 To advise the Cabinet on the effectiveness of the process as appropriate.

**Responsibilities of the Director of Resources**

- F3.08 To prepare and promote the authority's risk management strategy.
- F3.09 To prepare a report to the Audit and Governance Committee on the effectiveness of the risk management strategy and updated corporate risk register on at least a half yearly basis.
- F3.10 To maintain the Corporate Risk register and ensure that it is updated on at least a quarterly basis.
- F3.11 To develop risk management controls in conjunction with other Directors.
- F3.12 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- F3.13 To propose arrangements for corporate insurance cover to the Cabinet in line with the risk management strategy
- F.3.14 To keep under review at least annually corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.
- F3.15 To offer insurance cover to schools in accordance with Fair Funding arrangements.

**Responsibilities of Directors**

- F3.16 To notify the Director of Resources immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Director of Resources or the authority's insurers.
- F3.17 To take responsibility for risk management, having regard to advice from the Director of Resources and other specialist officers (e.g. crime prevention, fire prevention, health and safety).

- F3.18 To ensure that there are regular reviews of risk within their Directorates and to take all necessary and agreed action to mitigate risk, where possible.
- F3.19 To notify the Director of Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- F3.20 To consult the Director of Resources and the Monitoring Officer on the terms of any indemnity that the authority is requested to give.
- F3.21 To ensure that employees, or anyone covered by the authority'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.

## **INTERNAL CONTROLS**

### **Why is this important?**

- F3.22 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- F3.23 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- F3.24 The authority faces a wide range of financial, administrative, and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- F3.25 The system of internal controls is established to provide measurable achievement of:
- (a) efficient and effective operations
  - (b) reliable financial information and reporting
  - (c) compliance with laws and regulations
  - (d) risk management.

### **Key controls**

- F3.26 The key controls and control objectives for internal control systems are:
- (a) Appropriate for and aligned to the corporate risk management strategy
  - (b) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
  - (c) managerial control systems, which include including defining policies, setting objectives and plans, monitoring financial and other performance, and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities

- (d) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (e) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in Public Sector Internal Audit Standards (Updated March 2017) and with any other statutory obligations and regulations.

### **Responsibilities of the Director of Resources**

F3.27 To assist the authority to put 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 laws and regulations.

### **Responsibilities of Directors**

F3.28 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

F3.29 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Director of Resources. Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

F3.30 To ensure staff have a clear understanding of the consequences of lack of control.

## **AUDIT REQUIREMENTS**

### **Internal audit**

#### **Why is this important?**

F3.31 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.

F3.32 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates, and reports on the adequacy of internal control as a contribution to the proper, economic, efficient, and effective use of resources.

#### **Key controls**

F3.33 The key controls for internal audit are:  
(a) that it is independent in its planning and operation.

- (b) Chief Audit Executive (Head of Internal Audit) has direct access to the Director of Resources, Monitoring Officer and Chief Executive, all levels of management and directly to elected members.
- (c) the internal auditors comply with the Public Sector Internal Audit Standards 2017, which requires that the Internal Audit Section has sufficient resources with an appropriate range of skills to deliver the Audit Plan.

### **Responsibilities of the Audit and Governance Committee.**

- F3.34 To approve the internal audit charter and internal audit protocol
- F3.35 To approve the annual audit plan prepared by the Chief Audit Executive (Head of Internal Audit), following consultation with the Director of Resources, Monitoring Officer and Chief Executive.
- F3.36 To receive a quarterly report on the outcome of all audit reviews in line with the annual audit plan.
- F3.37 To receive an annual report on the delivery of internal audit in line with the internal audit strategy and the implementation of audit recommendations.
- F3.38 To receive an annual report on the effectiveness of the system of internal audit, in accordance with the Local Audit and Accountability Act 2014 and the Accounts & Audit Regulations 2015.
- F3.39 To prepare on an annual basis, a report to Cabinet on the effectiveness of internal audit and any other matters that the Panel wishes to bring to the attention of the Cabinet.

### **Responsibilities of the Cabinet**

- F3.40 To receive on an annual basis a report from the Audit and Governance Committee on the effectiveness of internal audit and any other matters that the Panel wishes to bring to the attention of the Cabinet.

### **Responsibilities of the Director of Resources**

- F3.41 To ensure that internal auditors have the authority to:
  - (a) access authority 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 employee of the authority to account for cash, stores or any other authority asset under his or her control
  - (e) access records belonging to third parties, such as contractors, when required
  - (f) directly access the Director of Resources, Monitoring Officer, Chief Executive, the Cabinet and Chairman of the Audit and Governance Committee.
- F3.42 To approve for submission to the Audit and Governance Committee and Cabinet the annual audit plan prepared by the [Chief Audit Executive \(Head of Internal Audit\)](#)



– which take account of the characteristics and relative risks of the activities involved.

- F3.43 To receive the Authority's Audit Charter prepared by the [Chief Audit Executive \(Head of Internal Audit\)](#), setting out the Terms of Reference for the provision of internal audit services within the Authority, submitting the Charter to the Audit and Governance Committee for approval and revision on an annual basis.
- F3.44 To receive the Authority's Internal Audit Protocol, prepared by the [Chief Audit Executive \(Head of Internal Audit\)](#) setting out the process adopted by the Audit and Investigation Unit in conducting audits and requirements that it imposes on the Authority's staff undertaking work subject to internal audit. The Protocol, and any amendments to it, will be submitted the Audit and Governance Committee for approval.
- F3.45 To ensure that there is an annual review of the effectiveness of the system of internal audit, in accordance with the Local Audit and Accountability Act 2014 and the Accounts & Audit Regulations 2015.
- F3.46 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **Responsibilities of Directors**

- F3.47 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents, and assets that the auditors consider necessary for the purposes of their work.
- F3.48 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- F3.49 To consider and respond promptly to recommendations in audit reports.
- F3.50 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- F3.51 To notify the Director of Resources and the [Chief Audit Executive \(Head of Internal Audit\)](#) immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources or any Council owned or occupied property is broken into. Pending investigation and reporting, the Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- F3.52 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the [Chief Audit Executive \(Head of Internal Audit\)](#) - prior to implementation.

## External Audit

### Why is this important?

- F3.53 The Local Audit and Accountability Act 2014 requires the Council to appoint an external auditor. The external auditor has rights of access to all documents and information necessary for audit purposes.
- F3.54 The basic duties of the external auditor are defined in the Local Audit and Accountability Act 2014. This requires the audit to be undertaken in accordance with any code of audit practice. The code of audit practice Public Sector Internal Audit Standards 2017 sets out the auditor's objectives to review and report upon:
- (a) the financial aspects of the audited body's corporate governance arrangements
  - (b) the audited body's financial statements
  - (c) aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the Accounts, Narrative Statement and Annual Governance Statement.
- F3.55 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### Key controls

- F3.56 External auditors are appointed by the Council. The National Audit Office prepares a code of audit practice, which external auditors follow when carrying out their audits.

### Responsibilities of the Director of Resources

- F3.57 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets that the external auditors consider necessary for the purposes of their work.
- F3.58 To ensure there is effective liaison between external and internal audit.
- F3.59 To work with the external auditor and advise the Council, Cabinet and Directors on their responsibilities in relation to external audit.

### Responsibilities of Directors

- F3.60 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets which the external auditors consider necessary for the purposes of their work.
- F3.61 To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

### **Why is this important?**

- F3.62 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- F3.63 The authority's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures, and practices.
- F3.64 The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

### **Key controls**

- F3.65 The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
  - (b) whistle blowing procedures are in place and operate effectively
  - (c) all Members and staff act with integrity and lead by example
  - (d) all staff are required to act promptly on any suspicions of fraud or corruption to ensure that these are addressed and investigated promptly.
  - (e) effective disciplinary arrangements to manage allegations of fraud or corruption.
  - (d) high standards of conduct are promoted amongst Members including an effective protocol for managing Member and officer relationships
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

### **Responsibilities of Council**

- F3.66 To approve and keep under review the Anti-fraud and corruption framework including
- (a) Anti-fraud and corruption policy and associated whistle blowing procedures
  - (b) Member and Officer Protocol

### **Responsibilities of the Monitoring Officer**

- F3.67 To maintain and keep up to date a register of Members' interests
- F3.68 To prepare and keep under review a protocol for managing Member and officer relationships.
- F3.69 To set out guidance for Directors for the preparation of directorate registers of interests.

### **Responsibilities of the Director of Resources**

- F3.70 To develop and maintain an anti-fraud and anti-corruption policy.
- F3.71 To maintain adequate and effective internal control arrangements.
- F3.72 To ensure that all suspected irregularities are reported to the Chief Audit Executive (Head of Internal Audit), the Monitoring Officer, Chief Executive and the Cabinet.
- F3.73 To develop and maintain a whistle blowing policy.
- F3.74 To investigate and, if necessary, instigate prosecutions, for fraudulent activity in compliance with the Council's Anti-Fraud and Anti-Corruption Strategy.
- F3.75 To authorise the necessary investigations to take place and in particular to ensure that all necessary authorities for surveillance to be undertaken under the Regulation of Investigatory Powers Act 2000 are obtained from an Authorised Officer and to maintain the Corporate Central Register of Authorisations

### **Responsibilities of Directors**

- F3.76 To ensure that all suspected irregularities are reported to the Chief Audit Executive (Head of Internal Audit).
- F3.77 To comply with ~~instigate~~ the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour by a member of staff.
- F3.78 To ensure that where financial impropriety is suspected, the Director of Resources is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, the Director, in consultation with the Director of Resources, will ensure that the Police are called in to investigate the allegation and determine with the Crown Prosecution Service whether any prosecution will take place.
- F3.79 To maintain a directorate register of interests, in accordance with guidance set by the Monitoring Officer.

## **ASSETS**

### **Security**

#### **Why is this important?**

- F3.80 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently to deliver services, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

## Key controls

- F3.81 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software, and information are:
- (a) resources are used only for the purposes of the authority and are properly accounted for
  - (b) resources are available for use when required
  - (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority to maximise benefits
  - (d) an asset register is maintained for the authority; assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
  - (e) all staff are aware of their responsibilities regarding safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
  - (f) all staff are aware of their responsibilities regarding safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

## Responsibilities of the Director of Resources

- F3.82 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with an individual value in excess of £1,000. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- safeguarded
  - used efficiently and effectively
  - adequately maintained.
- F3.83 To receive the information required for accounting, costing, and financial records from each Director.
- F3.84 To ensure that assets are valued in accordance with the current *Code of Practice on Local Authority Accounting in the United Kingdom: (CIPFA/LASAAC)*.

## Responsibilities of Directors

- F3.85 The appropriate Director shall maintain a property database in a form approved by the Director of Resources for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities, and duration of use.
- F3.86 To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Director in consultation with the Monitoring Officer, has been established as appropriate.
- F3.87 To ensure the proper security of all buildings and other assets under their control.

- F3.88 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Director and the Director of Resources and the Monitoring Officer
- F3.89 To pass title deeds to the Monitoring Officer who is responsible for custody of all title deeds.
- F3.90 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- F3.91 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- F3.92 To ensure that the Directors maintain a register of moveable assets in accordance with arrangements defined by the Director of Resources.
- F3.93 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- F3.94 To consult the Director of Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- F3.95 To ensure cash holdings on premises are kept to the minimum necessary for operational requirements and are within levels covered by the Council's insurance arrangements.
- F3.96 To ensure that keys to safes and similar receptacles are always carried on the person of those responsible; loss of any such keys must be reported to the Director of Resources immediately.
- F3.97 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Director of Resources, the Cabinet agrees otherwise.
- F3.98 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Director of Resources.
- F3.99 To ensure that all employees are aware that they have a personal responsibility regarding the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.
- F3.100 To notify the [Chief Audit Executive \(Head of Internal Audit\)](#) and the Council's Insurance and Risk Officer in the event of any premises occupied by the Council suffering theft, burglary or destruction of Council assets.

**Inventories**

- F3.101 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £1,000 in value.
- F3.102 To carry out an annual check (25%) of items on a rolling basis on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- F3.103 To make sure that property is only used in the course of the authority's business, unless the Director concerned has given permission otherwise.

**Stocks and stores**

- F3.104 To make arrangements for the care and custody of stocks and stores in the department.
- F3.105 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- F3.106 To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of a predetermined limit.
- F3.107 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Director of Resources, the Cabinet decides otherwise in a particular case.
- F3.108 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of £20,000.

**Intellectual property****Why is this important?**

- F3.109 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- F3.110 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

**Key controls**

F3.111 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures, if any.

**Responsibilities of the Director of Resources**

F3.112 To develop and disseminate good practice through the authority's intellectual property procedures.

**Responsibilities of Directors**

F3.113 To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

**Asset Disposal****Why is this important?**

F3.114 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

**Key controls**

F3.115 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

F3.116 Procedures protect staff involved in the disposal from accusations of personal gain.

**Responsibilities of the Director of Resources**

F3.117 To issue guidelines representing best practice for disposal of assets.

F3.118 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

**Responsibilities of Directors**

F3.119 To comply with advice issued by the Director of Resources and to seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

F3.120 To ensure that income received for the disposal of an asset is properly banked and coded.



## **LOANS & INVESTMENTS**

### **Why is this Important**

F3.121 The authority holds considerable investments and borrows substantial sums to support its Capital Programme. It is important that the Council ensures that its loans and investments are secure and that it maintains an appropriate title to all loans and investments.

### **Key Controls**

F.3.122 The key controls for the security of loans and investments.

- (a) loans and investments are used only for the purposes of the authority and are properly accounted for
- (b) investments are held within the name of the Authority
- (d) register is maintained for the authority of all loans, investment and borrowing.
- (e) formal approval is sought for third party loans.
- (e) to comply with all relevant legislation for running trust funds
- (f) all staff are aware of their responsibilities regarding safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (g) to maintain accounting records for imprest accounts.

### **Responsibilities of Director of Resources – investments and borrowing**

F3.123 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Council.

F3.124 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the Monitoring Officer.

F3.125 To effect all borrowings in the name of the authority.

F3.126 To act as the authority's registrar of stocks, bonds, and mortgages and to maintain records of all borrowing of money by the authority.

### **Responsibilities of Directors – investments and borrowing**

F3.127 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet or Council, as appropriate, following the advice of the Director of Resources.

### **Responsibilities of Directors – trust funds and funds held for third parties**

F3.128 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Director of Resources, unless the deed otherwise provides.

F3.129 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Resources, and to maintain written records of all transactions.

F3.130 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

### **Responsibilities of the Director of Resources – imprest accounts**

F3.131 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed **£50**.

F3.132 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

F3.133 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

### **Responsibilities of Directors – imprest accounts**

F3.134 To ensure that employees operating an imprest account:

- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
- (b) make adequate arrangements for the safe custody of the account
- (c) produce upon demand by the Director of Resources and their nominees (e.g. internal auditors) cash and all vouchers to the total value of the imprest amount
- (d) record transactions promptly
- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (f) provide the Director of Resources with a certificate of the value of the account held at 31 March each year
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Director of Resources for the amount advanced to him or her.

## **STAFFING**

### **Why is this important?**

F3.135 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

**Key controls**

F3.136 The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

**Responsibilities of the Director of Resources**

F3.137 To ensure that budget provision exists for all existing and new employees.

F3.138 To advise Directors on the financial implications of varying their establishment prior to any decision to vary the establishment.

F3.139 To act as an advisor to Directors on areas such as National Insurance and pension contributions, as appropriate.

**Responsibilities of Directors**

F3.140 To produce an annual staffing budget.

F3.141 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

F3.142 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

F3.143 To consult the Director of Resources to ensure that the financial implication of any variation to their staffing establishment is understood and affordable.

F3.144 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

F3.145 To ensure that the Director of Resources is immediately informed if the staffing budget is likely to be materially over or underspent.

## **FINANCE RULE D: SYSTEMS AND PROCEDURES**

### **RULE IN SUMMARY**

#### **Introduction**

- D.1** Sound systems and procedures are essential for an effective framework of accountability and control.

#### **GENERAL**

- D.2** The Director of Resources is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors to the existing financial systems or the establishment of new systems must be approved by the Director of Resources. However, Directors are responsible for the proper operation of financial processes in their own Directorates.
- D.3** Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Director of Resources.
- D.4** Directors should ensure that their staff receive relevant financial training that has been approved by the Director of Resources.
- D.5** Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation, and the Human Rights Act.

#### **INCOME AND EXPENDITURE**

- D.6** It is the responsibility of Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Director's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

#### **PAYMENTS TO EMPLOYEES AND MEMBERS**

- D.7** The Head of Human Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

## **PAYMENT TO CONTRACTORS AND CONSULTANTS**

- D.8** The Director of Resources is responsible for all payments to contractor and consultants and ensuring that these comply with appropriate legislation.

## **TAXATION**

- D.9** The Director of Resources is responsible for advising Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.10** The Director of Resources is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **TRADING ACCOUNTS/BUSINESS UNITS**

- D.11** It is the responsibility of the Director of Resources to approve ~~advise~~ on the establishment and operation of trading accounts and business units.

**APPENDIX D****FINANCIAL SYSTEMS AND PROCEDURES****DETAILED RULES****GENERAL****Why is this important?**

- F4.01 Directorates have many systems and procedures relating to the control of the authority's assets, including purchasing, costing, and management systems. Directorates are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are processed properly, and errors detected promptly.
- F4.02 The Director of Resources has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

**Key controls**

The key controls for systems and procedures are:

- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from target, plans and budgets that require management attention
- (d) operating systems and procedures are secure.
- (e) there is an audit trail or log of system changes.

**Responsibilities of the Director of Resources**

- F4.03 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the authority's financial affairs
  - (d) approve any new financial systems to be introduced
  - (e) approve any changes to be made to existing financial systems.

**Responsibilities of Directors**

- F4.04 To ensure that accounting records are properly maintained and held securely.

- F4.05 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Director of Resources.
- F4.06 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- F4.07 To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete, and timely manner
  - (c) output from the system is complete, accurate and timely.
- F4.08 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- F4.09 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- F4.10 To ensure that systems are documented, and staff properly trained in operating these systems.
- F4.11 To seek the approval of the Director of Resources before changing any existing system or introducing new systems that are financial in nature or that impact upon the financial systems of the Council.
- F4.12 To establish a scheme of delegation identifying officers authorised to act upon the Director's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- F4.13 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Director of Resources, together with any subsequent variations.
- F4.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- F4.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

## Responsibilities of the Head of Information Technology

- F4.16 To issue standards and guidelines for computer systems and take the necessary steps to ensure these are observed.
- F4.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, virus attack, etc.
- F4.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## INCOME AND EXPENDITURE

### Income

#### Why is this important?

- F4.19 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted, and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cashflow and avoids the time and cost of administering debt recovery procedures.

#### Key controls

- F4.20 The key controls for income are:
- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
  - (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
  - (c) all money received by an employee on behalf of the authority is paid without delay, and without deduction, to the Director of Resources or, as he or she directs, to the authority's bank, and properly recorded. The responsibility for cash collection should be separated from that:
    - for identifying the amount due
    - for reconciling the amount due to the amount received
  - (d) effective action is taken to pursue non-payment within defined timescales
  - (e) formal approval for debt write-off is obtained
  - (f) appropriate write-off action is taken within defined timescales
  - (g) appropriate accounting adjustments are made following write-off action
  - (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
  - (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.



**Responsibilities of the Director of Resources**

- F4.21 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems, and documentation for its collection.
- F4.22 To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- F4.23 To agree the write-off of bad debts within those functions that fall within the responsibilities of the Director up to £50,000 in each case and to refer larger sums to the Cabinet.
- F4.24 To approve all debts to be written off in consultation with the relevant Director and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2015.
- F4.25 To obtain the approval of the Cabinet in consultation with the relevant Director for writing off debts in excess of the approved limit.
- F4.26 To ensure that appropriate accounting adjustments are made following write-off action.

**Responsibilities of Directors**

- F4.27 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- F4.28 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- F4.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- F4.30 To issue official receipts or to maintain other documentation for income collection.
- F4.31 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- F4.32 To hold securely receipts, tickets and other records of income for the appropriate period.
- F4.33 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- F4.34 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.

- F4.35 To ensure income is not used to cash personal cheques or other payments.
- F4.36 To supply the Director of Resources with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Director of Resources to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Directors should use established performance management systems to monitor recovery of income and flag up areas of concern to the Director of Resources.
- 4.3.37 To assist the Director of Resources in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf.
- F4.38 To ensure that levels of cash held on the premises must not exceed the levels approved by the Council's insurers unless specific authority has been sought from the Director of Resources for those levels to be exceeded for short-term periods of operational necessity only.
- F4.39 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- F4.40 To recommend to the Director of Resources all debts to be written off in a timely manner and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. 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.
- F4.41 To obtain the approval of the Director of Resources when writing off debts in excess of £5000, and the approval of the Cabinet where debts exceed £50,000.
- F4.42 To notify the Director of Resources of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Director of Resources and not later than 30 April.

## **Ordering and Paying for Work, Goods and Services**

### **Why is this important?**

- F4.43 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's Contract Rules.

### **General**

- F4.44 Every officer and Member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of

the authority, in accordance with appropriate codes of conduct and the Contract and Tendering Procedure Rule 8A Section 3.

- F4.45 Official orders must be in a form approved by the Director of Resources and Monitoring Officer. Official purchase orders and Agresso must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Director of Resources.
- F4.46 Each order must conform to contract rules and any guidelines approved by the Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Monitoring Officer.
- F4.47 Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment from the authority shall be by bank transfer or other instrument or approved method, drawn on the authority's bank account or National Giro account by the Director of Resources. The use of direct debit shall require the prior agreement of the Director of Resources.
- F4.48 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key controls**

- F4.49 The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons using the purchase order system on Agresso in accordance with F4.43 above and are correctly recorded unless the Director of Resources has given authority, in writing, for an exemption to this requirement.
  - (b) all goods and services shall be ordered in accordance with the authority's contract rules unless they are purchased from sources within the authority and, where necessary, comply with European legislation
  - (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
  - (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
  - (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
  - (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
  - (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
  - (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

**Responsibilities of the Director of Resources**

- F4.50 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- F4.51 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- F4.52 To approve the form of official orders and associated terms and conditions.
- F4.53 To make payments from the authority's funds on the Director's authorisation that the expenditure has been duly incurred in accordance with Finance Rules.
- F4.54 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- F4.55 To make payments to contractors on the certificate of the appropriate Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- F4.56 To provide advice and encouragement on making payments by the most economical means.
- F4.57 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.
- F4.58 To make payments to suppliers within appropriate timescales.

**Responsibilities of Directors**

- F4.59 To ensure that unique numbered official orders are used for all goods and services, other than the exceptions specified in 4.43.
- F4.60 To ensure that orders are only used for goods and services provided to the department Directorate. Individuals must not use official orders to obtain goods or services for their private use.
- F4.61 To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained in accordance with contract rules. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.
- F4.62 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a

different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

- F4.63 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that discounts have been taken where available
  - (h) that appropriate entries will be made in accounting records.
- F4.64 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- F4.65 To ensure that the Directors maintain and review periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Director of Resources.
- F4.66 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice and other e payment methods. Any instances of these being rendered should be reported to the [Chief Audit Executive \(Head of Internal Audit\)](#).
- F4.67 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Director of Resources.
- F4.68 To ensure that the Directorate obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Director of Resources, which are in line with best value principles and contained in the authority's code of practice for tenders and contracts.
- F4.69 To utilise any central purchasing procedures which may involve the Council in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Contract Rules and will cover:
- (a) authorised officers and the extent of their authority
  - (b) advertisement for tenders
  - (c) procedure for creating, maintaining and revising a standard list of contractors
  - (d) selection of tenderers
  - (e) compliance with UK and EC legislation and regulations
  - (f) procedures for the submission, receipt, opening and recording of tenders
  - (g) the circumstances where financial or technical evaluation is necessary

- (h) procedures for negotiation
- (i) acceptance of tenders
- (j) the form of contract documentation
- (k) cancellation clauses in the event of corruption or bribery
- (l) contract records.

- F4.70 To ensure that employees are aware of the code of conduct for employees contained in Part 7C of the Constitution
- F4.71 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Director of Resources. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- F4.72 To notify the Director of Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Director of Resources and, in any case, not later than 30 April.
- F4.73 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Director of Resources the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- F4.74 To notify the Director of Resources immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- F4.75 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

### **Why is this important?**

- F4.76 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' 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.

### **Key controls**

- F4.77 The key controls for payments to employees and Members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
    - starters
    - leavers

- variations
  - enhancements
- and that payments are made on the basis of timesheets or claims
- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
  - (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
  - (d) that Inland Revenue regulations are complied with.

### **Responsibilities of the Head of Human Resources**

- F4.78 To arrange and control secure and reliable payment of salaries, wages, compensation, or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- F4.79 To record and make arrangements for the accurate and timely payment of tax, superannuation, and other deductions.
- F4.80 To make arrangements for payment of all travel attendance and subsistence claims or financial loss allowance.
- F4.81 To make arrangements for paying Members' Basic and any Special Responsibility Allowances, as contained in the approved Members' Allowances Scheme, and to pay travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- F4.82 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- F4.83 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

### **Responsibilities of Directors**

- F4.84 To ensure appointments are made in accordance with the policies and procedures rules of the authority and approved establishments, grades, and scale of pay and that adequate budget provision is available.
- F4.85 To notify the Head of Human Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Director of Resources.
- F4.86 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

- F4.87 To send an up-to-date list of the names of officers authorised to sign records to the Head of Human Resources, together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.
- F4.88 To ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Director of Resources.
- F4.89 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised, and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Director of Resources is informed where appropriate. The arrangements will provide that such claims may only be certified by a more senior officer to the officer making the claim. This will usually be the officer's Line Manager. For Directors, certification shall be another Director, the Director of Resources or the Monitoring Officer.
- F4.90 To ensure that the Head of Human Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- F4.91 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Members**

- F4.92 To submit claims for Members' travel and other allowances in accordance with the Members' Allowances Scheme (Part 9A) on a monthly basis and, in any event, within one month of the year end.

### **PAYMENTS TO CONSULTANTS AND SUB-CONTRACTORS**

#### **Why is this important?**

- F4.93 The Inland Revenue has introduced new arrangements to ensure that workers, who would have been an employee if they were providing their services directly to the client, pay broadly the same tax and National Insurance contributions as employees. These rules are sometimes known as 'IR35'

#### **Key Controls**

- F4.94 The key controls are as follows:
- (a) Ensuring that Directors are aware of the tax implications associated with the employment of consultants and sub-contractors.



- (b) Running checks on a regular basis to assess the extent of the above arrangements

### **Responsibilities of the Director of Resources**

- F4.95 To issue guidance to Directors on the application of employment taxation rules in line with Inland Revenue Requirement.
- F4.96 To advise and assist Directors to establish the employment status of individual employed on a self-employed consultant or sub-contract basis.
- F4.97 To review, on a regular basis, payments to self-employed consultants and sub-contractors and investigate any discrepancy with the relevant Director.

### **Responsibilities of Directors**

- F4.98 To consider the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Director of Resources.
- F4.99 To obtain further information and undertake an assessment for IR35 purposes.
- F4.100 To keep a record of their decision regarding the employment status of self-employed consultants and sub-contractors

## **TAXATION**

### **Why is this important?**

- F4.101 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often complex and the penalties for incorrectly accounting for tax are severe. It is therefore important for all officers to be aware of their role.

### **Key controls**

- F4.102 The key controls for taxation are:
- (a) budget managers are provided with relevant information and kept up to date on tax issues
  - (b) budget managers are instructed on required record keeping
  - (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
  - (d) records are maintained in accordance with instructions
  - (e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the Director of Resources**

- F4.103 To complete all Inland Revenue returns regarding PAYE.
- F4.104 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

- F4.105 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.
- F4.106 To maintain up-to-date guidance for authority employees on taxation issues that may affect their work for the Council or themselves as employees of the Council.

### **Responsibilities of Directors**

- F4.107 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.
- F4.108 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- F4.109 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- F4.110 To follow the guidance on taxation issued by the Director of Resources in the authority's accounting manual and VAT manual.

## **TRADING ACCOUNTS AND BUSINESS UNITS**

### **Why is this important?**

- F4.111 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations.

### **Responsibilities of the Director of Resources**

- F4.112 To advise on the establishment and operation of trading accounts and business units.

### **Responsibilities of Directors**

- F4.113 To consult with the Director of Resources and the Monitoring Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- F4.114 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.

- F4.115 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- F4.116 To ensure that each business unit prepares an annual business plan, as necessary.

## **FINANCE RULE E: EXTERNAL ARRANGEMENTS**

### **RULE IN SUMMARY**

#### **INTRODUCTION**

- E.1** The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

#### **PARTNERSHIPS**

- E.2** The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority's Constitution. Where functions are delegated, the Cabinet remains accountable for them to the Council.
- E.4** The Chief Executive or his representative represents the Authority on partnership and external bodies, in accordance with the scheme of delegation.
- E.5** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
- E.6** The Director of Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.7** Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### **EXTERNAL FUNDING**

- E.8** The Director of Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

## **Work for Third Parties**

- E.9** The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

**APPENDIX E****EXTERNAL ARRANGEMENTS****DETAILED RULE****PARTNERSHIPS****Why is this important?**

- F5.01 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- F5.02 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

**General**

- F5.03 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk
  - (b) the ability to access new resources
  - (c) to provide new and better ways of delivering services
  - (d) to forge new relationships.
- F5.04 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project
- or
- (b) a body whose nature or status give it a right or obligation to support the project.
- F5.05 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others
  - (b) acting as a project funder or part funder
  - (c) being the beneficiary group of the activity undertaken in a project.
- F5.06 Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
  - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
  - (c) be open about any conflict of interests that might arise
  - (d) to encourage joint working and promote the sharing of information, resources, and skills between public, private and community sectors
  - (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature

- (f) to act wherever possible as ambassadors for the project.

### **Key controls**

- F5.07 The key controls for authority partners are:
- (a) the business case submitted to the Cabinet
  - (b) Partnership Agreement
  - (c) if appropriate, to be aware of their responsibilities under the authority's Finance Rules and the Contract Rules
  - (d) to ensure that risk management processes are in place to identify and assess all known risks
  - (e) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
  - (f) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
  - (g) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution
  - (h) to ensure, where necessary, that the appropriate checks on staff (e.g. DBS) are undertaken prior to their employment in confidential or sensitive duties.
  - (i) to ensure that the authority has full and open access to partnership records
  - (j) to ensure that partnerships provide regular financial and performance information on at least a quarterly basis on the conduct of their affairs

### **Responsibilities of the Cabinet**

- F5.08 To consider and approve the business case for the establishment of a partnership
- F5.09 To consider and approve the final arrangements for establishing the partnership as set out in a partnership agreement
- F5.10 To appoint a lead member to oversee the operation of the partnership
- F5.11 To receive an annual report on the operation of major Council Partnerships.

### **Responsibilities of the Director of Resources**

- F5.12 To be consulted on all financial aspects relating to the business case used to establish the partnership and the associated partnership agreement.
- F5.13 To advise on effective controls that will ensure that resources are not wasted, including all financial aspects of the partnership agreement.
- F5.14 To advise on the key elements of funding a project. They include:
- (a) a scheme appraisal for financial viability in both the current and future years
  - (b) risk appraisal and management
  - (c) resourcing, including taxation issues
  - (d) audit, security, and control requirements
  - (e) carry-forward arrangements.
- F5.15 To ensure that the accounting arrangements are satisfactory.

## **Responsibilities of Directors**

- F5.16 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Director of Resources.
- F5.17 To ensure that there is a business case for the establishment of a partnership
- F5.18 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Director of Resources.
- F5.19 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- F5.20 To ensure that all agreements and arrangements are properly documented.
- F5.21 To provide appropriate information to the Director of Resources to enable a note to be entered into the authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

### **Why is this important?**

- F5.22 External funding is potentially an important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### **Key controls**

- F5.23 The key controls for external funding are:
- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
  - (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council
  - (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

## **Responsibilities of the Director of Resources**

- F5.24 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.



- F5.25 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- F5.26 To ensure that audit requirements are met.

### **Responsibilities of Directors**

- F5.27 To ensure that all claims for funds are made by the due date.
- F5.28 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

### **WORK FOR THIRD PARTIES**

#### **Why is this important?**

- F5.29 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit or service to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

#### **Key controls**

- F5.30 The key controls for working with third parties are:
- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Director of Resources.
  - (b) to ensure that contracts are drawn up using guidance provided by the Director of Resources and Monitoring Officer and that the formal approvals process is adhered to.
  - (c) to issue guidance regarding the financial aspects of third-party contracts and the maintenance of the contract register.

### **Responsibilities of the Cabinet**

- F5.31 To approve any arrangements for the provision of services to third parties.

### **Responsibilities of Director of Resources**

- F5.32 To issue guidance with regard to the financial aspects of third-party contracts and the maintenance of the contract register.

### **Responsibilities of Directors**

- F5.33 To consult with the Director of Resources and the Monitoring Officer on any proposals to provide services to third parties, prior to seeking Cabinet approval.
- F5.34 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- F5.35 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Director of Resources.

- F5.36 To ensure that appropriate insurance arrangements are made.
- F5.37 To ensure that the authority is not put at risk of assuming the responsibility for any bad debts that may occur if the third-party organisation is wound up.
- F5.38 To ensure that no contract is subsidised by the authority.
- F5.39 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- F5.40 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- F5.41 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- F5.42 To ensure that all contracts are properly documented.
- F5.43 To provide appropriate information to the Director of Resources to enable a note to be entered into the statement of accounts.

# Royal Borough of Windsor & Maidenhead

## INTERNAL AUDIT CHARTER

**The Terms of Reference for the provision of the Internal Audit Service within the Shared Audit and Investigation Service for RBWM**

*Approved by Corporate Overview and Scrutiny Panel 4 February 2020; amended by full Council 28 July 2020*

## **INTERNAL AUDIT CHARTER**

### **Introduction**

1. The purpose of this Internal Audit Charter is to set out the Terms of Reference for the provision of the Internal Audit Service within Royal Borough of Windsor and Maidenhead. The Charter is reviewed on an annual basis to ensure that current needs are met. The Charter demonstrates how the Internal Audit Service complies with the Public Sector Internal Audit Standards (PSIAS), updated March 2017.

### **Authority**

2. The Local Government Accounts and Audit Regulations 2015 require every local authority to undertake effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.
3. Under S151 of the Local Government Finance Act 1972, the S151 Officer is responsible for ensuring that proper arrangements exist for the management of the Council's financial affairs. Reliance upon Internal Audit is fundamental to the fulfilment of that responsibility.

### **Definition of Internal Auditing**

4. In accordance with the PSIAS, Internal Audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

### **Role, Purpose and Function**

5. The Internal Audit Service is delivered by the Shared Audit and Investigation Service (SAIS), a Shared Service between Wokingham Borough Council (WBC) and the Royal Borough of Windsor and Maidenhead (RBWM), hosted by WBC. The role of the Chief Audit Executive (CAE) is performed by the Assistant Director, Governance, WBC.
6. The Internal Audit Service provides:-
  - Senior Management and the Board (the Audit and Governance Committee) with assurances on the adequacy of control within the Council's systems and activities.
  - the S151 Officer with the assurances required to discharge their statutory responsibilities.
  - a service to monitor the efficient and effective delivery of the Council's objectives.
  - evidence regarding compliance with the Council's Constitution, Corporate procedures and the Council's policies and objectives.

7. The existence of Internal Audit does not diminish the responsibility of management to establish systems of internal control to ensure that activities are conducted in a secure, efficient and well-ordered manner.
8. For the purposes of clarification, Senior Management is defined as those posts that are within the organisation at Head of Service level and above.
9. The Board is the highest level of governing body charged with the responsibility to direct and/or oversee the activities and management of the organisation.

### **Independence**

10. The main determinant of the effectiveness of Internal Audit is that it is seen to be independent. To ensure this, Internal Audit operates within a framework that allows:-
  - unrestricted access to the Head of Paid Service and Senior Management.
  - unrestricted access to the Chair of the Audit and Governance Committee and other Council Members.
  - segregation from operations.
11. Every effort is made to preserve objectivity by ensuring that all audit members of staff are free from any conflicts of interest with regard to both audit and non-audit activities.

### **Objectives of Internal Audit**

12. As an independent appraisal function within the Council, the primary objective of Internal Audit is to review, appraise and report upon the adequacy of internal controls as a contribution to the proper, economic, efficient and effective use of resources. In addition, the other objectives of the function are to:
  - Ensure compliance with the Accounts and Audit Regulations 2015.
  - Deliver an annual internal audit opinion on the strength of the Council's governance arrangements and control environment to support the Council's review of the effectiveness of internal control and the production of the Annual Governance Statement (AGS).
  - Support managers with the management of risk including: -
    - In the delivery of services
    - Protection of assets from loss
    - Maintaining the reputation of the Council
    - Protecting the organisation from litigation
    - Meeting statutory obligations
    - Meeting corporate objectives
    - Being aware of environmental implications
    - Being alert to the risk of fraud or irregularity

- Contingency planning
  - Provide managers with support and advice to encourage consultation and the adoption of best practice.
  - Perform testing of key systems to inform the work of the External Auditors.
  - Undertake projects to meet the current concerns of the Audit and Governance Committee, Head of Paid Service, Executive Directors, Heads of Service, the Section 151 Officer and Monitoring Officer.
  - Undertake an annual review of the effectiveness of the Council's system of internal audit, required under the PSIAS. The Assistant Director, Governance, Wokingham Borough Council arranges this work and the outcomes are presented to the Audit and Governance Committee.
  - Assist management with the provision of consultancy work where appropriate, e.g. in the preparation for inspections, to implement best practice.
13. The assurance set out above is provided for the internal use of the Royal Borough of Windsor and Maidenhead. Where the Audit Sponsor (Chief Executive /Executive Director) decides it is prudent and increases efficiency these assurances can be used by 3<sup>rd</sup> parties. Examples include, but are not limited to, other local authorities, local authority trading companies, grant awarding bodies, regulatory and inspection bodies. Where this assurance is provided to external bodies these are limited to the primary purpose of providing reasonable assurance to the Royal Borough of Windsor and Maidenhead, except where this is agreed within the scope of the applicable Internal Audit Terms of Reference.

### **Scope of Internal Audit**

14. The scope of Internal Audit allows for unrestricted coverage of the Council's activities and unrestricted access to all records (both electronic or otherwise), assets, personnel and premises and for obtaining such information and explanations it considers necessary to fulfil its responsibilities. These rights of access also apply to the Council's partner organisations and contractors. This unrestricted access also extends to any person carrying out an investigation on behalf of the CAE.
15. In addition, Internal Audit, has unrestricted access to Members, the Head of Paid Service, Executive Directors, Heads of Service, all other council employees, External Audit, suppliers and contractors.
16. Internal Audit work covers all systems and activities in all directorates and locations throughout the Council.

### **Professional Standards and Ethics**

17. The Assistant Director, Governance, Wokingham Borough Council has adopted the mandatory PSIAS which applies the IIA International Standards to the UK Public Sector. The objectives of these Standards are to;
- Define the nature of internal auditing within the UK public sector.

- Set basic principles for carrying out internal audit in the UK public sector.
  - Establish a framework for providing internal audit services, which add value to the organisation, leading to improved organisational processes and operations, and
  - Establish the basis for the evaluation of internal audit performance and to drive improvement planning.
18. All Internal Auditors will endeavour to conform with the IIA's Code of Ethics and rules of conduct and the requirements of any other professional bodies for which they are a member. Internal Auditors also have regard to the Standards of Public Life's *Seven Principles of Public Life* ("Nolan Principles").
19. Instances of non-conformance to the PSIAS will be reported to the Board (Audit and Governance Committee). More significant deviations will be considered for inclusion in the AGS.
20. Any offers of gifts or hospitality will be reported to the Assistant Director, Governance, Wokingham Borough Council and an appropriate record made in accordance with the Council's gift and hospitality policy. Auditors must avoid the perception of any impairment to their objectivity and independence.

### **Responsibility**

21. Internal Audit has no executive responsibility for the Council's systems of internal control other than an appraisal of their effectiveness with regard to Council objectives.
22. Internal Audit is not an extension of, or a substitute for, the functions of management. Responsibility for internal control rests fully with managers, who should ensure that arrangements are appropriate and adequate. It is for management to address Internal Audit concerns or to accept the risk resulting from not taking action. However, it is the SAIS's responsibility to consider taking matters to higher levels of management or to Council Members if it is felt that the risk should not (or need not) be borne.
23. The internal auditor should have regard to the possibility of such malpractice and should seek to identify serious defects in internal control, which might permit the occurrence of such an event.
24. An internal auditor who discovers evidence of, or suspects, malpractice should report, through the Assistant Director, Governance, Wokingham Borough Council, firm evidence, or reasonable suspicions, to the appropriate level of management. It is a management responsibility to determine what further action to take.
25. The Assistant Director, Governance, Wokingham Borough Council will use information from fraud activities to inform the annual audit opinion and the risk-based plan.
26. The Assistant Director, Governance, Wokingham Borough Council will manage any conflict of interest from non-audit activities and details of these will be provided to the

Audit and Governance Committee. This includes any advisory and non-audit services that the SAIS provides to management.

### **Audit Style and Content**

27. The primary task of Internal Audit is to review the systems of internal control operating throughout the Council and in doing this will adopt a predominantly risk-based approach to audit, aligned to the RBWM Corporate Risk Register. Internal Audit will also provide advice and consultancy services to management on any issues related to governance, risk management and internal control matters where this does not negatively impact on their primary responsibility. This advice and consultancy work can be used to contribute to the annual internal audit opinion.
28. The Assistant Director, Governance, Wokingham Borough Council will be required to manage the provision of a complete Internal Audit Service to the Council which will include risk based compliance, computer and contract audit and in discharging this duty, the Assistant Director, Governance, Wokingham Borough Council will:
  - prepare an annual risk-based audit plan in consultation with the Head of Paid Service, Section 151 Officer, Executive Directors, Heads of Service, client managers and External Audit for formal endorsement by the Audit and Governance Committee. This Plan will be regarded as flexible rather than as an immutable expression of audit policy.
  - ensure that current entries in the RBWM Corporate Risk Register are reflected and included in the Audit Plan on a rolling basis and any significant changes to the Audit Plan to be brought to the attention of the Board.
  - ensure a system of close supervision of audit work, and maintain a review of audit files through the supervisory structure and a standardisation of documentation, as there may occasionally be a requirement to provide working papers, where requested.

### **Audit Resources and Training**

29. Internal Audit resource will be determined by the Audit and Governance Committee in consultation with the S151 Officer in order to enable him to discharge his statutory duties and will reflect the corporate needs of the Council. Resources will also reflect requirements needed to allow the S151 Officer to discharge his obligations. The Assistant Director, Governance, Wokingham Borough Council must ensure that the internal audit function has appropriate resources in order to meet its objectives and to comply with the PSIAS.
30. The staffing structure of the Service will comprise of suitably qualified posts with a mix of professional specialisms and skills to reflect the varied functions of the Service and the need to evaluate the efficiency and effectiveness of the complex range of processes undertaken by RBWM. The Assistant Director, Governance, Wokingham



Borough Council will arrange, as and when necessary and/or if such specialisms cannot be provided in-house, for such expertise to be provided by external providers.

31. The Assistant Director, Governance, Wokingham Borough Council will carry out a continuous review of the development and training needs of all audit personnel and will arrange appropriate in-service training. Internal Auditors have a personal responsibility to undertake a programme of continuing professional development (CPD) to maintain and develop their competence.
32. All Internal Audit staff will receive an annual appraisal.

### **Audit Reporting**

33. The Assistant Director, Governance, Wokingham Borough Council reports operationally to the Director of Resources who is a member of the Council's Corporate Leadership Team (CLT). The Head of Paid Service reviews the performance appraisal of the Assistant Director, Governance, Wokingham Borough Council. Feedback is sought from the Chair of the Audit and Governance Committee on the performance of the Assistant Director, Governance, Wokingham Borough Council.
34. Timely reporting is a key part of Internal Audit and reporting takes place: -
  - a. To the responsible Executive Director, Head of Service and Service Manager/Head Teacher at the conclusion of each audit review setting out an overall opinion and the main concerns.
  - b. To the Chief Executive and External Audit at the conclusion of each audit review (School's audits are issued to the Chair of Governors).
  - c. To the Audit and Governance Committee on a six monthly and annual basis, reporting progress against the Audit Plan, summarising the outcome of audit reviews, highlighting where management have not responded to audit concerns, identify the progress made by management in implementing the treatment of concerns and to emphasise any other key issues.
  - d. The annual report to the Audit and Governance Committee will also include an overall opinion on the strength of the governance arrangements and control environment (which will also contribute towards the production of the AGS) and an assessment of the system of internal control, as required by the Accounts and Audit Regulations 2015.

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# **PART 8 – OTHER RULES OF PROCEDURE**

## **D – PROPERTY PROCEDURE RULES**

## PROPERTY PROCEDURE RULES

The purpose of these rules is to set out the levels of authority and procedure for managing property.

### 1. Council

Where no specific budgetary provision has been made to authorise any expenditure relating to property, including:-

1. The acquisition of property
2. The taking of leases / licences
3. Repairs to Council Property (including where the Council is tenant)

FOR THE AVOIDANCE OF DOUBT this does not apply to any property obligation imposed by statute.

### 2. Cabinet Authority

Note: all sums exclude VAT. All sums are the monies actually paid or received. If no money is paid or received then the sum is the cash equivalent based upon the transaction being on market value terms.

#### A. Council as Seller / owner / landlord of Council Property:

- A1. To grant Occupational leases on Council Property where the term exceeds 25 years or the total rent received over the term exceeds £500,000.00
- A2. To grant Ground leases on Council Property where the term exceeds 125 years or where the total rent exceeds £500,000.00 or the capital premium received is greater than £100,000.00
- A3. To sell or grant any rights over Council Property where the total capital premium received exceeds £100,000
- A4. To enter into any agreement with any third party (including tenant under a lease) where a payment or obligation is incurred by the Council which is in excess of £50,000

#### B. Council as Purchaser / tenant of third party property:

- B1. To enter into, agree terms or authorise the Council to enter into any agreements where the term commitment exceeds 25 years or the total payments of money (whether as compensation or a capital payment or over the term of years or benefit in kind) exceeds £100,000.

### 3. Director and Property (Asset Management)

Subject to the items reserved specifically to Council or Cabinet and the procedure rules detailed below the Executive Director of Place has authority (together with officers authorised by such Director) to effect the day-to-day management of the Council's Property (including property it occupies as tenant / licensee).

Such authority includes, in consultation with other officers of the Council as necessary, agreeing the use, disposal, acquisition or renewal of any interest in land or property

(including the taking of leases / licences or other interest) within the Council's budgetary framework and to enter into all ancillary documentation in respect of such properties and to take any necessary action in respect of ongoing agreements including strategic decisions for the improved use of return of Council Property such as submitting planning applications which is in accordance with approved Council strategies.

Specific property procedure rules:-

1. In respect of the Council's commercial property tenants and requests for rent reductions:-

- All tenants would have to demonstrate comprehensively via the provision of audited accounts and certified statements from their financial consultants/ banks that a rent reduction was essential to their survival
- A formal business plan would have to be provided to satisfy the Council that the company clearly had a future
- Any reductions would be on a 6/12 month reviewable basis
- Each case and the level of reduction would be decided on its individual merits, in consultation with the Head of Finance and the Cabinet Member with responsibility for Property
- Total confidentiality being maintained subject to statutory requirements e.g. Freedom of Information Act 2000

2. To consult the Cabinet Member with responsibility for property:-

- for the grant of leases of Council Property where the term exceeds 10 years or the total rent received over the term exceeds £100,000.00; or
- the total capital premium received exceeds £25,000; or
- in any agreement with any third party (including tenant under a lease) where a payment or obligation is incurred by the Council which is in excess of £25,000; or
- any agreement where the Council is tenant or purchaser or a landowner or makes payment to a third party and the term of agreement exceeds 10 years or the total payments of money to a third party (whether as compensation or a capital payment or rent over the term of years) exceeds £25,000.

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# **PART 8 – OTHER RULES OF PROCEDURE**

## **E – ACCESS TO INFORMATION PROCEDURE RULES**

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## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1 SCOPE**

These rules apply to all meetings of the Council, its Committees, Forums, Panels and Regulatory panels and public meetings of the Cabinet (together called "meetings").

### **2 ADDITIONAL RIGHTS TO INFORMATION**

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

### **3 RIGHTS TO ATTEND MEETINGS**

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

### **4 NOTICES OF MEETING**

The Council will give at least **5** clear working days' notice of any meeting by posting details of the meeting at the Town Hall, St Ives Road, Maidenhead, SL6 1RF and on the Council's website ([www.rbwm.gov.uk](http://www.rbwm.gov.uk)).

### **5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda. These items will also be available on the Council's website ([www.rbwm.gov.uk](http://www.rbwm.gov.uk)).

### **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 Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7 ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record; and
- (c) the agenda for the meeting.

## **8 BACKGROUND PAPERS**

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

The Head of Governance will ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

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

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

## **9 SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public the Town Hall, St Ives Road, Maidenhead, SL6 1RF

## **10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 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.

### **10.2 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.

### 10.3 **Meaning of confidential information**

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

### 10.4 **Meanings of exempt information.**

Exempt information means information falling within the following 7 categories (subject to any condition) in the following table.

#### **Exempt Information**

<b>Categories</b>	
1.	Information relating to any individual
2.	Information which is likely to reveal the identity of an individual
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officeholders under the authority.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes – <ul style="list-style-type: none"> <li>a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>b) To make an order or direction under any enactment</li> </ul>
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

In addition the seven criteria listed above are subject to a 'Public Interest Test' i.e. that there is a greater public interest in the information being exempt, than in making the report public. Guidance issued in relation to the Public Interest Test as applied to Freedom of Information exemptions, gives some assistance in assessing the

public interest. The following are examples of factors which would encourage disclosure:

- furthering the understanding and participation in the public debate of issues of the day
- promoting accountability and transparency by public authorities for their decisions
- promoting accountability and transparency in the spending of public money
- allowing individuals and companies to understand decisions made by public authorities affecting their lives and in some cases assisting individuals in challenging such decisions

## **11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, 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.

## **12 APPLICATION OF RULES TO THE CABINET**

Rules 13 to 24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 to 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 12 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings the sole purpose of which is for Officers to brief Members.

Wherever possible, Cabinet meetings and reports to those meetings will also seek to comply with Rules 1-12.

## **13 PROCEDURES BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) or Rule 16 (special urgency) a key decision may not be taken unless:

- a) A notice (called here a forward plan) has been published in connection with the matter in question at least 28 days before the decision is due to be made stating:
  - (i) that a key decision is to be made on behalf of the relevant local authority;
  - (ii) the matter in respect of which the decision is to be made;

- (iii) where the decision maker is an individual, that individual's name and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
  - (iv) the date on which, or the period within which, the decision, the decision is to be made;
- b) Where the decision is to be taken at a meeting of the Cabinet or its committees, 5 days' notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14 THE FORWARD PLAN**

### **14.1 Period of forward plan**

Forward plans will be prepared by the Democratic Services Team Manager on behalf of the Leader to cover a period of at least four months, beginning with the first day of any month. They 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.

### **14.2 Contents of forward plan**

The forward plan will contain matters which the Leader has reason to believe will be the subject a key decision to be taken by the Cabinet, a committee of the Cabinet, individual Members of the Cabinet, Officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a) the matter in respect of which a decision is to be made;
- b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- c) the date on which, or the period within which, the decision will be taken;
- d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e) the means by which any such consultation is proposed to be undertaken;
- f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Monitoring Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- a) that key decisions are to be taken on behalf of the Council;
- b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

- c) the plan will contain details of the key decisions to be made for the four-month period following its publication.
- d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices.
- e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available.
- g) that other documents may be submitted to decision takers;
- h) that procedure for requesting details of documents (if any) as they become available; and
- i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## **15 GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- b) the Democratic Services Team Manager has informed the Chairman of the relevant Overview and Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;
- c) the Democratic Services Team Manager has made copies of that notice available to the public at the offices of the Council; and
- d) at least 5 clear days have elapsed since the Democratic Services Team Manager complied with (b) and (c).

As soon as reasonably practicable after the Democratic Services Team Manager has complied with (a)-(c) above he/she must make available at the council offices a notice setting out the reasons why compliance with paragraph 13 is impracticable and publish that notice on the Council's website.

## **16 SPECIAL URGENCY**

If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the relevant Overview and Scrutiny Panel, or if the Chairman of the relevant Overview

and Scrutiny Panel is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

As soon as reasonably practicable after the decision maker has received confirmation that the making of the decision is urgent, the Democratic Services Team Manager must make available at the Council offices a notice setting out the reasons why compliance with paragraph 16 is impracticable and publish that notice on the Council's website.

## **17 REPORT TO COUNCIL**

### **17.1 When the relevant Overview and Scrutiny Panel can require a report**

If the relevant Overview and Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the General Exception procedure under Rule 15; or
- (c) the subject of the Special Urgency Procedure under Rule 16;

the Panel may require the Cabinet to submit a report to the Council within 8 weeks. The power to require a report shall be made if a resolution is passed at a meeting of the relevant Overview and Scrutiny Panel.

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

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 clear working days of receipt of the written notice, or the resolution of the Panel, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**

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

## **18 RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Democratic Services Team Manager or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, a record of any conflict of interest relating to the matter decided which

is declared by any member of the decision making body which made the decision and in respect of any declared conflict of interest, a note of dispensation granted.

## **19 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will, wherever possible, hold meetings relating to matters which are not key decisions in public.

## **20 NOTICE OF OTHER MEETING OF THE CABINET**

Members of the Cabinet or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **21 DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

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

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

### **21.2 Provision of copies of reports to Overview and Scrutiny Panel**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the relevant Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

### **21.3 Record of individual decision**

As soon as reasonably practicable after a decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Democratic Services Team Manager to prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **22 OVERVIEW AND SCRUTINY PANELS' ACCESS TO DOCUMENTS**

### **22.1 Rights to copies**

Subject to Rule 22.2 below, the relevant Overview and Scrutiny Panel will be entitled to receive within 10 clear days of request, copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:



- a) any business transacted at a public or private meeting of the Cabinet, its committees; or
- b) any officer making a delegated executive decision; or
- c) any decision taken by an individual member of the Cabinet.

## 22.2 **Limit on rights**

The relevant Overview and Scrutiny Panel 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;
- c) or the advice of a political adviser

If determined that a member of an Overview and Scrutiny Panel is not entitled to a copy of the document or part of any such document, the decision maker must provide the Overview and Scrutiny Panel with a written statement stating the reasons for that decision.

## 23 **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### 23.1 **Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- a) it contains exempt information falling within the categories of exempt information detailed in 10.4; or
- b) it contains the advice of a political adviser

### 23.2 **Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees, which relates to any key decision unless paragraph (a) or (b) above applies.

### 23.3 **Nature of rights**

These rights of a Member are additional to any other right he/she may have. Where access is restricted to a document identified in 22.2 23.1 or 23.2 the reason for the restriction shall be determined by the Leader and Cabinet on advice of the Monitoring Officer. An explanation would be provided to Members on the reason for the restriction to access to the document, and attendance at meeting.

**24 FREEDOM OF INFORMATION****24.1 Public right to copies of Information held by the Council**

The public has a right to request copies of any information held by the Council in any format, unless the information is exempt under the Data Protection Act or the Freedom of Information Act, and the public interest test, where it applies, does not support the information being made public, copies of the information must usually be supplied within 20 days. More information on the rights under the Freedom of Information Act and Environmental Information Regulations are available on the Council's website at [www.rbwm.gov.uk](http://www.rbwm.gov.uk).

**25 NEED TO KNOW**

25.1 The common law principle of "need to know" refers to the requirement that access to the information is necessary for the conduct of one's official duties.

# **PART 9 – MISCELLANEOUS ITEMS**

## **A – MEMBERS’ ALLOWANCES**

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD****MEMBERS' ALLOWANCES SCHEME**

1. This Scheme is the Royal Borough of Windsor & Maidenhead's Members' Allowances Scheme and shall have effect for the year ending 31 March 2021, and subsequent years.
2. The Scheme is made under the Local Authorities (Members' Allowances) (England) Regulations 2003.

In this scheme:

"Councillor" means an elected Member of the Royal Borough of Windsor and Maidenhead.

"Co-optee" means a non-councillor co-opted or appointed to serve on the Council's Committees or Panels.

"year" means the financial year ending on 31 March in any year.

4. **Basic Allowance**

The Council shall pay equally to each Councillor a Basic Allowance of £8,472 each year.

This allowance is intended to recognise the time each Councillor spends on their work, and associated costs which includes all Council related telephone calls; including calls on mobile phones, broadband costs, postage and stationery, routine travel (such as meetings with Ward residents) and subsistence costs and other incidental costs, such as office equipment for home use.

5. **Special Responsibility Allowances**

The Council shall pay each year an allowance to those Councillors who hold the positions of office as specified in Schedule 1 to this Scheme.

Where a Councillor holds more than one of the positions attracting a Special Responsibility Allowance as specified in Schedule 1, the Councillor will only be eligible to receive one such allowance. The sum to be paid to be the highest eligible allowance.

6. **Travelling Allowance**

Councillors and co-optees should seek to choose a mode of transport that is both cost-effective and environmentally responsible, making an appropriate judgement between the cost and convenience of the mode of travel selected. Councillors/Co-optees shall normally be expected to make use of public transport as a first choice of travel.

Travelling expenses incurred in the performance of an “approved duty” referred to in Schedule 2 may be reclaimed from the Council subject to the following conditions:-

### *Public Transport*

The rate of travel by public transport shall not exceed the amount of the ordinary fare or any available cheap fare. Where more than one class of fare is available the standard class fare should be claimed.

With regard to rail fare, the second class or any cheap day travel fare may be claimed. The rate specified above may be increased by supplementary allowances not exceeding expenditure actually incurred:

- i) on Pullman Car or similar supplements, reservation of seats and deposit or portage of luggage; and
- ii) on sleeping accommodation for an overnight journey.

### *Own Vehicle*

The rate claimed shall be the following rates approved by the Inland Revenue (Approved Mileage Allowance Payments).

Cars	-	45p per mile
Motorcycles	-	24p per mile
Bicycles	-	20p per mile
Passengers	-	5p per mile for each passenger* carried

\* Passenger must be a Councillor, co-optee or an officer of the Royal Borough of Windsor and Maidenhead.

If a Councillor/co-optee uses his or her car to travel to a conference or a meeting outside of the borough and the mileage rate exceeds the cost of an ordinary class rail fare, the cost of the rail fare only will be reimbursed, unless good reason could be given for necessitating car travel.

### *Parking and toll charges*

The cost of parking, including overnight garaging, and toll charges may be claimed provided these were necessarily incurred.

### *Travel by taxi*

Taxi fares and any reasonable gratuity paid, may be claimed in the following circumstances:-

- a) in cases of urgency;
- b) where no public transport is reasonably available;
- c) where luggage or equipment has to be carried; or
- d) where the claimant has a medical condition or disability which necessitates the use of a taxi.

In any other case where a taxi is used, the amount that may be claimed shall be the amount of the fare for travel by appropriate public transport.

### *Hired Motor Vehicle*

The cost of a hired motor vehicle other than a taxi shall not exceed the total mileage costs which would have been applicable had the vehicle belonged to the Councillor/co-optee who hired it.

### *Travel by Air*

The rate of travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport. Where the saving in time is so substantial as to justify payment of the fare for travel by air, an amount not exceeding the following will be paid;

- i) the ordinary fare or any available cheap fare for travel by regular air service, or
- ii) where no such service is available or in case of urgency, the fare actually paid.

### *Start and finish points for a journey*

The starting and finishing point for any journey made by a Councillor shall be either the Councillor's home within the Borough or the Town Hall, St Ives Road, Maidenhead. If Councillors start and/or finish their journey from a place other than their home within the Borough, the claim shall be in respect of the lesser of the cost of either the journey to/from that other place or to/from their home within the Borough.

## 7. **Subsistence Allowance**

No Subsistence allowances shall be paid.

## 8. **Dependants' Carers' Allowance**

The Dependants' Carers' Allowance can be claimed by all Members who are the main carers of dependant relatives. The allowance will be paid where a Member requires care provision for a dependant relative or co-habitee to enable the Member to perform an Approved Duty (as defined in Schedule 2).

There are two categories of dependants:

- Childcare – i.e. children aged fifteen or less
- Care for dependants on social/medical grounds – i.e. elderly parents or disabled children/siblings who are dependant upon a Member.

The Dependants' Carers' Allowance may be claimed from the Council subject to the following conditions:-

- The allowance is payable for the length of the qualifying approved duty and can include travel time up to a maximum of one hour per claim.

- The total amount claimable per approved duty is capped at 5 hours and within any one week a maximum of 20 hours can be claimed.
- No claims are permitted for when dependant children are at school.
- The hourly rate payable will be as follows:
  - Childcare - to be paid at and indexed to the hourly minimum wage applicable to the age of the carer (who must be 16 years of age or over) or less for actual reimbursement.
  - Care for dependants on social/medical grounds – the hourly rate paid to be the Royal Borough’s average hourly homecare charge.
- Councillors wishing to claim the allowance will need to complete a Dependants’ Carers’ Allowance claim form and sign a declaration that states:
  - the carer provided a babysitting/carer service to the Member in order that the Member could attend the meetings listed in the claim.
  - the carer is 16 years of age or over and not an immediate member of the claimant’s family or person residing with the Councillor who has provided the care.

## 9. **Co-optees Allowance**

No Co-optees allowances are payable.

*The following remuneration is not within the formal scope of the 2003 Regulations but has been included in the scheme for transparency purposes.*

The payment of a financial loss allowance to Independent Education Appeal Panel and Independent Review Panel Members will be paid. The payment to be the actual financial loss incurred (not the loss of potential earnings) up to an agreed maximum as follows:

- for a period not exceeding 4 hours - £32.37
- for a period exceeding 4 hours but not exceeding 24 hours - £64.74.

## 10. **Record of Allowances Paid**

A record will be kept of the payments made in accordance with this Scheme, including the name of the recipients of the payment and the amount and nature of each payment. The record of the payments made in accordance with this Scheme shall be made available on the borough website following the end of the financial year (see paragraph 11 below). Current year payments will be made available at all reasonable times for inspection at no charge. A hard copy shall also be supplied to any person who requests it on payment of a reasonable fee.

## 11. **Publicity**

As soon as reasonably practicable after the end of the financial year, arrangements will be made to publish the total sums paid to each recipient in respect of basic, special responsibility, travel, dependants’ carers’ and co-optees allowances.

As soon as reasonably practicable after receiving a report from the Independent Remuneration Panel setting out the Panel's recommendations, copies will be made available for inspection and a notice will be published in a local newspaper.

Once the Scheme has been made or amended, copies will be made available for inspection and a further notice published in a local newspaper with details of the scheme and also of the recommendations of the Remuneration Panel.

A notice be published as soon as possible after the expiration of twelve months after the previous publication of such a notice, irrespective of whether the scheme has been amended during that twelve month period.

12. **Pensions**

No Councillor shall be eligible to join the Local Government Pension Scheme.

13. **Withholding and Repayment of Allowances**

- a) When a Member of the Council, or co-optee, is suspended fully or partly from their duties, all allowances, with the exception of childcare and dependants' carers' allowances, will be withheld for the period of suspension.
- b) Any allowance that has been paid to a Councillor/co-optee whilst on suspension or any allowance paid after a Councillor has ceased to be a Member of the authority shall be recovered.

14. **Payment and Submission of Claims**

- a) Basic and Special Responsibility Allowances will be paid monthly direct into the Member's bank account on the 25th day of the month.
- b) Claims for travel, child care and dependants' carers' allowances, if submitted by the 25<sup>th</sup> day of the month together with any necessary supporting receipts, will be paid on the 25th day of the following month. Claims shall be made on the prescribed claim form within two months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.
- c) Receipts or other proof that expenditure has been incurred should always be provided in support of any claim.
- d) Claims that are received six months after the date on which the duty in respect of which the entitlement to the allowance arises is carried out will not be paid without the specific authorisation of the Cabinet.

15. **Renunciation**

Councillors may by notice in writing given to the Head of Governance elect to forgo any part of their entitlement to an allowance under this scheme.

To minimise the administrative burden of managing the scheme:



- All Members are requested to provide such notification, or to confirm they do not wish to renounce any part of their allowances, by 1 April each year. Following local elections, newly elected Members are requested to provide a similar notification within 1 calendar month of election.
- All Members are requested to confirm to Payroll their wish to participate in the GAYE scheme by 1 April each year. Following local elections, newly elected Members are requested to provide a similar notification within 1 calendar month of election.

#### 16. **Part-Year Entitlements**

Part-year apportionments under this scheme shall be made in accordance with the regulations and on the basis of Schedule 3.

#### 17. **Annual Adjustments**

The following allowances will be automatically increased annually (and rounded as appropriate to the nearest pound), on the following basis:-

- Basic, special responsibility, Civic allowances and financial loss allowances shall be updated annually in line with the average pay increase given to Royal Borough employees (and rounded to the nearest pound as appropriate). Any implementation of this index should continue to be applicable from the same date that it applies to officers.
- Travelling allowances shall be adjusted on the 1 April each year by reference to the approved HMRS AMAP (authorised Mileage allowance Payments) approved rates.
- The Dependant Carer's Allowance be paid at the maximum hourly minimum wage applicable to the age of the carer (who must be 16 years of age or over) or, for carers for dependants on social/medical grounds, the Royal Borough's average hourly homecare charge
- The adjustments above to be made each year for a period of up to 4 years (until October 2024) without the need for a review by the Independent Remuneration Panel, unless such a review is requested by the Panel or the Council.

The Head of Governance is authorised to amend the scheme in accordance with any annual adjustment by reference to the approved index.

#### 18. **Civic Allowances**

The following allowances are paid under the Local Government Act 1972 and are subject to the same annual index that applies to the Basic Allowance and SRAs

Mayor: £10,612

Deputy Mayor: £3,714

#### 19. **Maternity, Adoption and Paternity Leave**

The Basic Allowance should continue to be paid during any period of maternity, adoption or paternity leave, noting that any period of absence from qualifying meetings greater than six months would require special dispensation by Full Council.

For maternity and adoption leave, the Member to continue to receive SRA payments on the following basis:

- Six weeks at 90% of actual SRA level
- Twelve weeks at 50% of actual SRA level

For paternity leave, the Member to continue to receive SRA payments in full for a period of two weeks.

No qualifying period to apply for entitlement to receive either the Basic Allowance or SRA payments during a period of maternity, adoption or paternity leave.

If a Member chose to resign in the three month period following a return from maternity or adoption leave, they would be required to pay back the 12 weeks at 50% allowance.

If the individual ceased to be a Member in the three months following a return from maternity or adoption leave because they stood, but were not selected as a candidate by their party, or stood as a candidate in a local election but did not win their seat, they would not be required to repay the 12 weeks at 50% allowance.

Shared parental leave should only apply if both parents/legal guardians are Royal Borough councillors; the Basic allowance would continue to be paid whichever Member took the parental leave.

Shared parental leave does not apply to Special Responsibility Allowances unless, at the time of the child's birth or placement with a family, both Members receive a Special Responsibility Allowance of the same value. In this scenario the Members could chose to share the parental leave related to their SRAs.

Given that costs as a result of maternity, adoption or paternity leave will be incurred on an ad hoc basis, the Head of Finance has delegated authority to add necessary funding to the Member Allowances budget as and when required to cover costs incurred.

**SCHEDULE 1****SPECIAL RESPONSIBILITY ALLOWANCES**

The following payments shall be paid to those Councillors holding the following positions:-

<b>POSITION</b>	<b>Allowance £ p.a – from 1 April 2022</b>
Leader of the Council	25,416
Deputy Leader of the Council	13,979
Deputy Chairman of Cabinet	13,979
Cabinet Member	12,708
Chairman of the Area Development Management Panels (maximum of 2)	6,355
Chairman of the Licensing Panel (maximum of 1)	6,335
Chairmen of the Overview and Scrutiny Panels (maximum of 4)	5,084
Chairman of the Audit and Governance Committee	5,084
Chairman of the Berkshire Pension Fund Panel	5,084
Members of the Appeals Panel	£35 (meetings up to a maximum of three hours in length); £68 (meetings over three hours in length)
Leader(s) of the Opposition Groups (minimum of 3 Members) *	6,355*
Mayor	3,183
Deputy Mayor	1,061
Non-Executive Director of Optalis (N. B. funded by Optalis)	3,121

\* To be split proportionately between Group Leaders based on the number of Members in each Group.

NOTE

Leader of the Council	-	basic allowance multiplied by 3.00
Deputy Leader of the Council	-	Leader's allowance multiplied by 55%
Deputy Chairman of Cabinet	-	Leader's allowance multiplied by 55%
Cabinet Member	-	Leader's allowance multiplied by 50%
Chairman of Area Development Management Panels	-	Leader's allowance multiplied by 25%
Chairman of Borough-wide Development Management Panel	-	Leader's Allowance multiplied by 25%
Chairman of Overview and Scrutiny Panels	-	Leader's allowance multiplied by 20%
Chairman of Audit and Governance Committee	-	Leader's allowance multiplied by 20%
Chairman of the Licensing Panel	-	Leader's allowance multiplied by 25%
Chairman of the Berkshire Pension Fund Panel	-	Leader's allowance multiplied by 20%
Leaders of the Opposition Groups*	-	Leader's allowance multiplied by 25%
	-	

**SCHEDULE 2****APPROVED DUTIES**

Approved Duties for the purpose of paying the Travelling Allowances are as follows:-

For all Councillors in receipt of a Special Responsibility Allowance

- All duties carried out in connection with that responsibility

For all Councillors:

- a) Meetings of the full Council
- b) Attendance as a voting Member at Cabinet, Committee, Panel, Forum, working group, Task & Finish Group or steering group set up by the Council, Committee or Panel which is properly established by the Council, Cabinet, Committee or Panel and formally and properly convened (i.e. there is a resolution to this effect).
- c) Attendance as a non-voting Member to discuss the Member's own motion that has been referred to Cabinet/Committee/Panel by the Council;
- d) Attendance at meetings of a Committee or Panel when the Councillor concerned is not a Member of that Committee or Panel but is attending to represent the views of the Ward on a specific matter relating to that Ward.
- e) Attendance at meetings of any other body as the fully authorised appointee, representative or nominee of the Council or on any committee or Sub-Committee of such body (excluding an appointment as a School Governor).
- f) Attendance at a meeting of any association of authorities of which the Council is a member as the Council's appointed representative which includes meetings of any committee or Sub-Committee of that body.
- g) Attendance as the Council's appointed representative at meetings of any external organisation ('outside body'), its Committees or Sub-Committees (except where such organisations pay the Councillor's expenses)
- h) Attendance at a meeting, briefing, training and development session or event (other than those excluded below) at the invitation of a Director, Head of Service or their named nominee.

Members cannot claim allowances for the following type of meetings:

- Political group or party meetings.
- School Governing Bodies
- Events primarily of a social nature
- Meetings with Ward residents (covered by Basic Allowance)

**PART-YEAR ENTITLEMENTS**

1. 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.
2. If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic or a special responsibility allowance, then in relation to each of the periods
  - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
  - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.
3. Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.
4. Where this scheme is amended as mentioned in sub-paragraph 2, and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph 2 (a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a councillor subsists bears to the number of days in that period.
5. Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
6. Where this scheme is amended as mentioned in sub-paragraph 2, and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 2 (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as

the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.





# **PART 9 – MISCELLANEOUS ITEMS**

## **C – MEMBER ROLES AND RESPONSIBILITIES**

**MEMBER ROLES & RESPONSIBILITIES****1. WARD COUNCILLOR****Role Purpose and Activity**

As the democratically mandated local community leader, Ward Councillors will engage different communities and bring local interests together to help resolve issues and shape future provision. In particular they will:

**Representing and Supporting Residents and Communities**

- i. represent their ward's interests;
- ii. be recognised as a local community champion and leader for the area, helping to provide direction, resolve local concerns and reconcile competing views and interests;
- iii. encourage the involvement of local people in policy development, service planning and decision-making;
- iv. promote effective relationships with public, private, voluntary and community organisations in their area;
- v. be the Council's link with existing town and parish councils and play a key role in supporting local campaigns or groups looking to establish new town and parish councils in their area;
- vi. monitor the performance of local public services in their area;
- vii. hold poor performers to account and help plan improvements to local services;
- viii. promote both the principles and practices of community cohesion, social inclusion and equality and diversity;
- ix. keep in touch with constituents, through regular surgeries, meetings, phone, letter, e-mail and personal contact so as to know and understand their views and concerns;
- x. speak freely in support of their area in order to influence Council decision-making, including the consideration of issues such as planning and licensing;
- xi. campaign for measures that will secure stronger and safer communities for local people, a high quality of life, and effective response delivery of services;
- xii. take up any opportunities for member development to help improve their role as an effective and influential councillor;

- xiii. fulfil the statutory and locally determined requirements of an elected member of the Council, including compliance with all relevant codes of conduct.

### **Making Decisions and Overseeing Council Performance**

- xiv. to participate in full Council meetings, reaching and making informed and balanced decisions, and overseeing performance;
- xv. to adhere to the principles of democracy and collective responsibility in decision-making;
- xvi. to promote and ensure efficiency and effectiveness in the provision of Council and other public services; and

### **Representing the Council/Outside Bodies etc.**

- xvii. to represent the Council on nominated outside bodies as an appointee of the Council.

## **2. CABINET MEMBER**

### Role Purpose and Activity

As a member of the decision-making Cabinet, a Councillor will be responsible for making key decisions on a wide range of issues which affect and shape quality of life in the Borough. In particular they will:

- (a) act as the main focus of day to day political leadership, decision making and democratic accountability at a whole authority level;
- (b) be a publicly recognisable and accountable 'key decision-maker' with whom the 'buck stops' for Council performance;
- (c) collectively provide strong and fair executive leadership and clear political guidance to other Councillors and Officers and the community;
- (d) develop with partners a clear vision for what the Borough needs and develop policies and take decisions which respond to local peoples' needs and aspirations;
- (e) take tough and strategically driven decisions on competing priorities;
- (f) champion the vision and interests of the council and the Borough on the regional and national stage;
- (g) be instrumental in building and nurturing local and thematic partnerships;
- (h) provide leadership and direction within the Council for designated portfolio areas;

- (i) hold senior officers within the Council to account for the performance of services, allowing performance to be assessed from the perspective of customers and citizens;
- (j) develop the financial and investment strategies to fulfil the Council's commitments to the sustainable community strategy for the Borough, working with partners in the public, business, voluntary and community sectors;
- (k) ensure that there is proper support for frontline Councillors in their various roles, responding to them when they raise issues and ensuring that their local knowledge is brought to bear when developing policy; and
- (l) develop a clear understanding of their portfolio the scope and range of the areas for which they are responsible, and Council policies in respect of those areas.

### 3. **MAYOR/CHAIRMAN OF COUNCIL**

#### Role Purpose and Activity

The Chairman of the Council will:

- (a) provide strong, fair and visible civic and ceremonial leadership to the Council and in relation to citizens, stakeholders and partners;
- (b) attend or be represented at such civic and ceremonial functions as the Council or he/she determines appropriate;
- (c) be an ambassador for the Council and the Borough, both at home and abroad;
- (d) promote public involvement in the Council's activities;
- (e) uphold and promote the Council's Constitution and interpret the Constitution when necessary;
- (f) 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;
- (g) request such additional meetings of the Council as may be considered necessary or appropriate and cancel any meetings where there is no business to transact at a meeting;
- (h) ensure the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members who are not on the Cabinet can hold the Cabinet to account;

- (i) be consulted on any matter in relation to which consultation with the Chairman of the Council is required under the Constitution; and
- (j) determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in the Council's Constitution.

#### 4. **DEPUTY MAYOR / VICE-CHAIRMAN OF COUNCIL**

##### Role Purpose and Activity

The Vice-Chairman of the Council will:

- (a) undertake a full deputising role in the absence of the Chairman;
- (b) preside over meeting of the Council in the absence of the Chairman;
- (c) undertake specific tasks and responsibilities as requested by the Chairman; and
- (d) share and support in general the full workload range of the Chairman.

#### 5. **LEADER OF THE COUNCIL**

##### Role Purpose and Activity

The Leader of the Council will:

- (a) Chair meetings of the Cabinet.
- (b) provide strong, fair and visible political leadership and direction to the Council and in relation to citizens, stakeholders and partners in the co-ordination of Council policies, strategies and service delivery.
- (c) lead the Council's efforts to achieve its mission.
- (d) lead in promoting the aims and core values of the Council.
- (e) lead the development of local, regional, national and European policy and strategic partnerships.
- (f) assume overall responsibility for guiding the development and formulation of corporate priorities and strategic policy direction and for presenting those policies to the Council and the wider community, acting as the principal political spokesperson on corporate and strategic issues.

- (g) provide political guidance to the Chief Executive and the senior management team on the implementation of the Council's priorities and objectives and revenue and capital budgets.
- (h) appoint the Deputy Leader of the Council and other Executive Councillors to form the Cabinet.
- (i) chair and manage the business/work programme of the Cabinet, ensure a coordinated and coherent approach is taken to policy development and the delivery of services and also where relevant, and taking into account any advice from the Chief Executive, the Council's Monitoring Officer or Chief Finance Officer, ensure that proposals are made to the Council for decision within appropriate timescales, and in accordance with the Budget and Policy Framework of the Council and all legislative and procedural requirements.
- (j) determine the frequency and timing of meetings of the Cabinet and placing items on its agenda as he/she thinks appropriate.
- (k) ensure the development of effective corporate policies reflecting the Council's commitment to continuous improvement and co-ordinate the work of the Cabinet in:
  - i. developing corporate policies and programmes;
  - ii. delivering high quality services to the people of the Borough;
  - iii. monitoring performance;
  - iv. preparing and monitoring revenue and capital budgets;
  - v. reviewing the effectiveness of the Council's organisation and management process;
  - vi. developing policies to promote the social, economic and environmental wellbeing of the Borough.
- (l) delegate executive functions to any individual Member of the Cabinet and establish protocols for consultation between Cabinet Members and Officers in such circumstances.
- (m) ensure that decisions are taken properly, openly and, where appropriate, publicly and that key decisions are properly programmed and subject to effective public consultation.
- (n) involve local people and communities in the business and activities of the Council as fully as possible.
- (o) encourage scrutiny of the Council's policies and service delivery and the input to policy by all Councillors.

- (p) ensure that Members are treated responsibly and responsively in representing their constituents.
- (q) maintain and promote the highest standards of conduct in the Council's affairs and in the appointment of its staff.
- (r) be consulted on any matter in relation to which consultation with the Leader is required under the Constitution.
- (s) represent the Council at all levels, liaise with government and other relevant agencies where appropriate and act as the principal ambassador for the Council in advocating and explaining its roles and functions and promoting it as a listening and accessible organisation.
- (t) consider learning and development needs of all Members and arrange suitable briefing and learning opportunities to take place through appropriate mechanisms.

## 6. **DEPUTY LEADER**

### Role Purpose and Activity

The Deputy Leader of the Council will:

- (a) undertake a full deputising role in the absence of the Leader;
- (b) undertake portfolio responsibilities of a Cabinet Councillor as determined by the Leader;
- (c) undertake specific tasks and responsibilities as requested by the Leader;
- (d) work actively with the Leader to co-ordinate the work of the Cabinet;
- (e) share and support in general the full workload range of the Leader;
- (f) chair the Cabinet in the absence of the Leader of the Council; and
- (g) promote and co-ordinate liaison between the Leader, the Cabinet and non-executive Members.

## 7. **CHAIRMAN OF A COMMITTEE**

### Role Purpose and Activity

A Committee Chairman will:

- (a) provide leadership and direction for the Committee;
- (b) chair and manage the business of the Committee, ensuring effective engagement by all Committee Members;
- (c) request such additional meetings of the Committee as may be considered necessary or appropriate;
- (d) promote the role of the Committee both within and outside the Council;
- (e) represent the Council and the Committee on relevant external bodies as required;
- (f) guide Members through those functions delegated by the Council to the Committee;
- (g) be consulted on matters of business between meetings;
- (h) ensure that the Committee takes balanced decisions based on all relevant evidence, always with impartiality and fairness;
- (i) ensure, where appropriate, that there is full consultation with and participation by all interested parties on issues to be considered by the Committee;
- (j) ensure that Committee decisions are properly recorded with full justifications;
- (k) liaise and consult with relevant officers wherever appropriate; and
- (l) consider learning and development needs of Members and arrange suitable briefing and learning opportunities to take place through appropriate mechanisms.

## 8. **VICE-CHAIRMAN OF A COMMITTEE**

### Role Purpose and Activity

A Committee Vice-Chairman will:

- (a) provide a full deputising role in the absence of the Chair;
- (b) in the absence of the Chairman, to chair meetings of the Committee;
- (c) undertake specific tasks and responsibilities as requested by the Chair;
- (d) share and support in general the full workload range of the Chairman; and



- (e) work actively with the Chairman to co-ordinate the work of the Committee.

## 9. **LEADER OF OPPOSITION**

### Role Purpose and Activity

The Leader of an opposition Group will:

- (a) provide strong, fair and visible leadership and direction to the Group within the Council;
- (b) act as a spokesperson for the Group and as a representative of the Council to external bodies and organisations as appropriate;
- (c) represent the interests of the Group in any discussions with the Leader of the Council, other Group Leaders, other senior Members of the Council or senior Officers;
- (d) be responsible for the appointment of Group Members to seats on Council Bodies in accordance with the Council's political balance apportionments;
- (e) comment on, challenge and review the majority Group's performance in the coordination and implementation of its policies and procedures;
- (f) be the Group's principal consultee on Council business in general and establish and represent the views of the Group on issues of policy and probity;
- (g) with other Group Leaders, work with the Chief Executive and Directors on relevant corporate matters; and
- (h) support the learning and development needs of all Members of the Group.

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## **PART 9 – MISCELLANEOUS ITEMS**

### **B – MEMBERSHIP OF COUNCIL COMMITTEES, CABINET AND SPECIAL RESPONSIBILITIES**

<b>Cabinet</b>	
<b>Councillor</b>	<b>Portfolio</b>
<b>Simon Werner</b>	<b>Leader of the Council (LD) Community Partnerships, Public Protection and Maidenhead (LD)</b>
<b>Lynne Jones</b>	<b>Deputy Leader of the Council Finance (LI)</b>
<b>Amy Tisi</b>	<b>Children's Services, Education and Windsor (LD)</b>
<b>Catherine del Campo</b>	<b>Adult Services and Health (LD)</b>
<b>Joshua Reynolds</b>	<b>Communities and Leisure (LD)</b>
<b>Adam Bermange</b>	<b>Planning, Legal and Asset Management (LD)</b>
<b>Geoff Hill</b>	<b>Highways and Transport, Customer Service Centre and Employment (LI)</b>
<b>Karen Davies</b>	<b>Climate Change, Biodiversity and Windsor Town Council (LD)</b>
<b>Richard Coe</b>	<b>Environmental Services (LD)</b>
<b>Cabinet Sub Committee / Working Group</b>	<b>Membership</b>
<b>Cabinet Transformation Sub Committee</b>	Councillors Adam Bermange (LD), Lynne Jones (LI) and Simon Werner (LD)
<b>Contracts Working Group: (3 Councillors)</b>	Councillors Richard Coe (LD), Mark Howard (LD) and Gary Reeves (LD)
<b>Climate Change Working Group: (5 Councillors)</b>	Councillors Richard Coe (LD), Wisdom Da Costa (WWRA), Karen Davies (LD), Joshua Reynolds (LD) and Jodie Grove (LI)
<b>Community Champions</b>	
<b>Councillor</b>	<b>Role</b>
Helen Taylor	Social Housing Champion
Helen Price	CSR (Corporate Social Responsibility) Champion
Chris Moriarty	Consultation Champion
Jack Douglas	Volunteering Champion
David Buckley	Business Champion

## Royal Borough of Windsor & Maidenhead

### Committee / Panel / Forum Membership 2023/24

Committee / Panel / Forum	Membership
<p><b>Appeals Panel</b> (3 or 5 Councillors)</p> <p><i>Called on an 'as required' basis, maintaining political balance where possible.</i></p> <p>(3 LD / 1L! / 1C)</p>	<p><b>Members:</b> Mandy Brar (LD) Geoff Hill (LI) Asghar Majeed (C) Kashmir Singh (LD) Amy Tisi (LD)</p> <p><b>Substitutes:</b> Clive Baskerville (LD) Maureen Hunt (C) Neil Knowles (LI) Sian Martin (LD) Mark Wilson (LD)</p>
<p><b>Audit and Governance Committee</b> (5 Councillors and 2 independent non-voting members)</p> <p>(3 LD / 1L! / 1C)</p>	<p><b>Chair:</b> Julian Tisi (LD)</p> <p><b>Vice-Chair:</b> Mark Wilson (LD)</p> <p><b>Members:</b> Simon Bond (LD) Suzanne Cross (LI) Julian Sharpe (C)</p> <p><b>Independent non-voting members:</b> Vacant</p> <p><b>Substitutes:</b> Mark Howard (LD) Chris Moriarty (LD) Helen Price (LI) Gary Reeves (LD) John Story (C)</p>
<p><b>Berkshire Pension Fund Committee</b> (5 Councillors)</p> <p>(3 LD / 1L! / 1C)</p> <p>* WWRA seat by agreement with LD</p>	<p><b>Chair:</b> Simon Bond (LD)</p> <p><b>Vice-Chair:</b> Wisdom Da Costa (WWRA)*</p> <p><b>Members:</b> Neil Knowles (LI) Asghar Majeed (C) Julian Tisi (LD)</p> <p><b>Substitutes:</b> Carole Da Costa (WWRA)* Geoff Hill (LI) Mark Howard (LD) John Story (C) Mark Wilson (LD)</p>

<p><b>Member Standards Panel</b> (8 Councillors)</p> <p>(4 LD / 2LI / 1C / 1WWRA)</p>	<p><b>Chair:</b> Simon Werner (LD)</p> <p><b>Vice-Chair:</b> Lynne Jones (LI)</p> <p><b>Members:</b> Catherine del Campo (LD) Carole Da Costa (WWRA) Sayonara Luxton (C) Helen Price (LI) Joshua Reynolds (LD) Kashmir Singh (LD)</p> <p><b>Substitutes:</b> Clive Baskerville (LD) Simon Bond (LD) Mandy Brar (LD) David Buckley (LI) Wisdom Da Costa (WWRA) Geoff Hill (LI) Sian Martin (LD) John Story (C)</p>
<p><b>Member Standards Sub Committee</b> (3 Councillors)</p> <p><i>2 selected from the existing Members (including substitutes) of the Member Standards Panel (politically balanced wherever possible) and one of the Council's Independent Persons acting as Chair, established on an 'as required' basis.</i></p> <p><i>If the complaint relates to a Town or Parish Councillor then a co-opted Town or Parish Councillor may also be an additional member, but will have no voting rights.</i></p>	
<p><b>Appointment Committee</b> (5 Councillors)</p> <p>(3 LD / 1LI / 1C)</p> <p><i>5 Members (politically balanced) to include Leader of the Council (Chair), Deputy Leader of the Council (Vice Chair) and relevant Cabinet Member if appropriate, established on an 'as required' basis.</i></p>	
<p><b>Appointment Committee – Executive Director of Resources</b> (5 Councillors)</p> <p>(3 LD / 1LI / 1C)</p> <p><i>5 Members (politically balanced) to include Leader of the Council (Chair), Deputy Leader of the Council (Vice Chair) and relevant Cabinet Member if appropriate, established on an 'as required' basis.</i></p> <p><b>Members:</b> Councillors Adam Bermange (LD), Maureen Hunt (C), Lynne Jones (LI), Simon Werner (LD) and Mark Wilson (LD)</p> <p><b>Substitutes:</b> Councillors Buckley (LI) Catherine del Campo (LD) Sayonara Luxton (C) Joshua Reynolds (LD) A m y T i s i ( L D )</p>	

**Employment Appeals Sub Committee**

(3 Councillors)

*3 Members (including substitutes) of the Appointment Committee called on an 'as required' basis, maintaining political balance where possible.*

**Licensing Panel**

(11 Councillors)

*(6 LD / 2LI / 2C/ 1WWRA)*

**Chair:**

Mandy Brar (LD)

**Vice Chair:**

Kashmir Singh (LD)

**Members:**

Clive Baskerville (LD)

Jack Douglas (LD)

Sian Martin (LD)

Mark Wilson (LD)

Geoff Hill (LI)

Neil Knowles (LI)

Genevieve Gosling (C)

John Story (C)

Wisdom Da Costa (WWRA)

**Substitutes:**

Catherine del Campo (LD)

Karen Davies (LD)

Mark Howard (LD)

Josh Reynolds (LD)

Gurch Singh (LD)

Simon Werner (LD)

Alison Carpenter (LI)

Helen Taylor (LI)

Julian Sharpe (C)

Vacant (C)

Carole Da Costa (WWRA)

**Licensing and Public Space Protection Order (PSPO) Sub Committee**

(3 Councillors)

*3 Members of the Licensing Panel (not substitutes) called on an 'as required' basis, maintaining political balance where possible*

<p><b>Maidenhead Development Management Committee</b> (9 Councillors)</p> <p>(5 LD / 2LI / 2C)</p> <p><i>Members will be drawn from councillors representing the following wards:</i></p> <p><i>Hurley &amp; Walthams; Cox Green; Oldfield; Boyn Hill; St Mary's; Belmont; Riverside; Furze Platt; Pinkneys Green; Bisham &amp; Cookham; Bray</i></p> <p><i>Substitutes can be drawn from any ward</i></p>	<p><b>Chair:</b> Joshua Reynolds (LD)</p> <p><b>Vice-Chair:</b> Sian Martin (LD)</p> <p><b>Members:</b> Mandy Brar (LD) Geoff Hill (LI) Maureen Hunt (C) Gary Reeves (LD) Kashmir Singh (LD) Helen Taylor (LI) Leo Walters (C)</p> <p><b>Substitutes:</b> Clive Baskerville (LD) Suzanne Cross (LI) Catherine del Campo (LD) Jack Douglas (LD) Genevieve Gosling (C) Jodie Grove (LI) Asghar Majeed (C) Sian Martin (LD) Simon Werner (LD)</p>
<p><b>Windsor and Ascot Development Management Committee</b> (9 Councillors)</p> <p>(5 LD / 2LI / 2C)</p> <p><i>Members will be drawn from Councillors representing the following wards:</i></p> <p><i>Sunningdale &amp; Cheapside; Ascot &amp; Sunninghill; Old Windsor; Datchet, Horton &amp; Wraysbury; Eton &amp; Castle; Clewer East; Clewer &amp; Dedworth West; Clewer &amp; Dedworth East</i></p> <p><i>Substitutes can be drawn from any ward</i></p> <p>* WWRA seat by agreement with LD</p>	<p><b>Chair:</b> Amy Tisi (LD)</p> <p><b>Vice-Chair:</b> Mark Wilson (LD)</p> <p><b>Members:</b> David Buckley (LI) Alison Carpenter (LI) Carole Da Costa (WWRA)* Devon Davies (LD) Sayonara Luxton (C) Julian Sharpe (C) Julian Tisi (LD)</p> <p><b>Substitutes:</b> Catherine del Campo (LD) Wisdom Da Costa (WWRA)* Karen Davies (LD) Genevieve Gosling (C) Jodie Grove (LI) Neil Knowles (LI) Asghar Majeed (C) Joshua Reynolds (LD) Simon Werner (LD)</p>



<p><b>Rights of Way and Highway Licensing Panel</b> (8 Members)</p> <p>(4 LD / 2LI / 1C / 1WWRA)</p>	<p><b>Chair:</b> Mandy Brar (LD)</p> <p><b>Vice-Chair:</b> Clive Baskerville (LD)</p> <p><b>Members:</b>  Alison Carpenter (LI)  Richard Coe (LD)  Wisdom Da Costa (WWRA)  Geoff Hill (LI)  Maureen Hunt (C)  Julian Tisi (LD)</p> <p><b>Substitutes:</b>  George Blundell (LD)  Carole Da Costa (WWRA)  Gary Reeves (LD)  Joshua Reynolds (LD)  John Story (C)  Simon Werner (LD)</p>
<p><b>People Overview &amp; Scrutiny Panel</b> (9 Members)</p> <p>(5 LD / 2LI / 2C)</p> <p><i>A Councillor can only hold the position of Chair or Vice-Chair of one O&amp;S Panel.</i></p> <p><i>The Mayor and Members of the Cabinet cannot be Members of an O&amp;S Panel.</i></p> <p>Co-optees: Mark Jervis (Academy Governor), Vacancy (Primary Governor), Catherine Hobbs (Portsmouth Diocese), Tony Wilson (Oxford Diocese)</p> <p>* WWRA seat by agreement with LD</p>	<p><b>Chair:</b> TBC</p> <p><b>Vice-Chair:</b> TBC</p> <p><b>Members:</b>  Mandy Brar (LD)  Suzanne Cross (LI)  Carole Da Costa (WWRA)*  Devon Davies (LD)  Jack Douglas (LD)  Genevieve Gosling (C)  George Shaw (LD)  John Story (C)  Helen Taylor (LI)</p> <p><b>Substitutes:</b>  Alison Carpenter (LI)  Wisdom Da Costa (WWRA)*  Jodie Grove (LI)  Mark Howard (LD)  Maureen Hunt (C)  Sian Martin (LD)  Julian Sharpe (C)  Gurch Singh (LD)  Mark Wilson (LD)</p>

<p><b>Corporate Overview &amp; Scrutiny Panel</b> (9 Councillors)</p> <p>(5 LD / 2LI / 2C)</p> <p><i>A Councillor can only hold the position of Chair or Vice-Chair of one O&amp;S Panel.</i></p> <p><i>The Mayor and Members of the Cabinet cannot be Members of an O&amp;S Panel.</i></p>	<p><b>Chair: TBC</b></p> <p><b>Vice-Chair: TBC</b></p> <p><b>Members:</b></p> <p>David Buckley (LI)  Mark Howard (LD)  Maureen Hunt (C)  Chris Moriarty (LD)  Helen Price (LI)  Gary Reeves (LD)  Julian Sharpe (C)  Julian Tisi (LD)  Mark Wilson (LD)</p> <p><b>Substitutes:</b></p> <p>Clive Baskerville (LD)  Mandy Brar (LD)  Suzanne Cross (LI)  Jack Douglas (LD)  Genevieve Gosling (C)  Sayonara Luxton (C)  Sian Martin (LD)  Gurch Singh (LD)  Helen Taylor (LI)</p>
<p><b>Place Overview &amp; Scrutiny Panel</b> (9 Councillors)</p> <p>(5 LD / 2LI / 2C)</p> <p><i>A Councillor can only hold the position of Chair or Vice-Chair of one O&amp;S Panel.</i></p> <p><i>The Mayor and Members of the Cabinet cannot be Members of an O&amp;S Panel.</i></p>	<p><b>Chair: TBC</b></p> <p><b>Vice-Chair: TBC</b></p> <p><b>Members:</b></p> <p>Clive Baskerville (LD)  George Blundell (LD)  Alison Carpenter (LI)  Jodie Grove (LI)  Asghar Majeed (C)  Sian Martin (LD)  Gurch Singh (LD)  Kashmir Singh (LD)  Leo Walters (C)</p> <p><b>Substitutes:</b></p> <p>David Buckley (LI)  Jack Douglas (LD)  Genevieve Gosling (C)  Mark Howard (LD)  Sayonara Luxton (C)  Helen Price (LI)  Gary Reeves (LD)  Mark Wilson (LD)  Vacant (LD)</p>

<p><b>Aviation Forum</b> (5 Councillors)</p> <p>(3 LD / 1L! / 1C)</p>	<p><b>Chair:</b> Richard Coe (LD)</p> <p><b>Vice-Chair:</b> Neil Knowles (LI)</p> <p><b>Members:</b> Julian Tisi (LD) Karen Davies (LD) Julian Sharpe (C)</p> <p><b>Substitutes:</b> David Buckley (LI) Gary Reeves (LD) Clive Baskerville (LD) Gorge Blundell (LD) Asghar Majeed (C)</p>
<p><b>Corporate Parenting Forum</b> (5 Councillors)</p> <p>(3 LD / 1L! / 1C)</p> <p>* WWRA seat by agreement with LD</p>	<p><b>Chair:</b> Amy Tisi (LD)</p> <p><b>Vice-Chair:</b> Carole Da Costa (WWRA)*</p> <p><b>Members:</b> Helen Taylor (LI) Catherine del Campo (LD) Genevieve Gosling (C)</p> <p><b>Substitutes:</b> Richard Coe (LD) Suzanne Cross (LI) Wisdom Da Costa (WWRA)* Karen Davies (LD) Maureen Hunt (C)</p>
<p><b>Grants Panel</b> (5 Councillors)</p> <p>(3 LD / 1L! / 1C)</p>	<p><b>Chair:</b> Joshua Reynolds (LD)</p> <p><b>Vice-Chair:</b> Simon Werner (LD)</p> <p><b>Members:</b> Jack Douglas (LD) Helen Price (LI) Leo Walters (C)</p> <p><b>Substitutes:</b> Catherine del Campo (LD) Alison Carpenter (LI) Genevieve Gosling (C) Amy Tisi (LD)</p>
<p><b>School Improvement Forum</b> (3 Councillors)</p> <p><i>Cabinet Member for Children's Services, Opposition Spokesperson for Children's Services and one other Member from the ruling group.</i></p>	<p><b>Chair:</b> Amy Tisi (LD)</p> <p><b>Vice-Chair:</b> Neil Knowles (LI)</p> <p><b>Members:</b> Mark Wilson (LD)</p> <p><b>Substitutes:</b> Catherine del Campo (LD) Lynne Jones (LI) Simon Werner (LD)</p>

<p><b>Statutory Officer Panel</b> (5 Councillors, plus two Independent Persons)</p> <p><i>Called on an 'as required' basis, maintaining political balance where possible.</i></p>	
<p><b>Royal Berkshire Fire Authority</b></p> <p><i>3 RBWM Councillors appointed to the 20 Member Berkshire Authority</i></p> <p><i>(2LD / 1LI)</i></p>	<p><b>Members:</b> Joshua Reynolds (LD) Helen Taylor (LI) Simon Werner (LD)</p>
<p><b>East Berkshire Joint Health Overview and Scrutiny Committee</b></p> <p><i>3 RBWM Councillors appointed to the 9 Member East Berkshire Committee</i></p> <p><i>The three authorities have agreed to waive the requirement for the committee as a whole to have proportional political representation. However, each local authority may decide whether to maintain political proportionality for its seats on the committee or not.</i></p> <p><i>As per the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218 (Regulation 30) no Member of the executive can be a Member of this body.</i></p>	<p><b>Members:</b> Suzanne Cross (LI) George Shaw (LD) Gurch Singh (LD)</p>
<p><b>Joint East Berkshire Health Overview and Scrutiny Committee with Buckinghamshire Council</b></p> <p><i>3 RBWM Members appointed to the 12 Member East Berks/Bucks Committee</i></p> <p><i>The four authorities are asked to waive the requirement for the committee as a whole to have proportional political representation</i></p> <p><i>As per the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218 (Regulation 30) no Member of the executive can be a Member of this body.</i></p>	<p><b>Members:</b> Suzanne Cross (LI) George Shaw (LD) Gurch Singh (LD)</p>

<p><b>Health and Wellbeing Board</b></p> <p><i>4 RBWM Members appointed to the wider Board to include Cabinet Member(s) with responsibility for Adult and Children's Services and Chair of People Overview and Scrutiny Panel.</i></p> <p><i>The Board is not subject to political balance under regulation 7 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.</i></p>	<p><b>Chair:</b> Catherine del Campo (LD)</p> <p><b>Members:</b>  Joshua Reynolds (LD)  Simon Werner (LD)  TBC – Chair of People Overview and Scrutiny Panel</p>
<p><b>Maidenhead Town Forum</b> (7 Councillors)</p> <p><i>The Area Forums will not be politically balanced and one Councillor will be drawn from each Ward:</i></p> <ul style="list-style-type: none"> <li>&gt; Belmont</li> <li>&gt; Boyn Hill</li> <li>&gt; Furze Platt</li> <li>&gt; Oldfield</li> <li>&gt; Pinkneys Green</li> <li>&gt; Riverside</li> <li>&gt; St Mary's</li> </ul>	<p><b>Chair:</b> Gurch Singh (LD)</p> <p><b>Vice-Chair:</b> Helen Taylor (LI)</p> <p><b>Members:</b>  Clive Baskerville (LD)  Sian Martin (LD)  Joshua Reynolds (LD)  George Shaw (LD)  Kashmir Singh (LD)</p> <p><b>Substitutes</b>  Any other councillor from the relevant Wards as listed</p>
<p><b>Windsor Town Forum</b> (5 Councillors)</p> <p><i>The Area Forums will not be politically balanced and one Councillor will be drawn from each Ward:</i></p> <ul style="list-style-type: none"> <li>&gt; Clewer &amp; Dedworth East</li> <li>&gt; Clewer &amp; Dedworth West</li> <li>&gt; Clewer East</li> <li>&gt; Eton &amp; Castle</li> <li>&gt; Old Windsor</li> </ul>	<p><b>Chair:</b> Alison Carpenter (LI)</p> <p><b>Vice-Chair:</b> Amy Tisi (LD)</p> <p><b>Members:</b>  Wisdom Da Costa (WWRA)  Mark Wilson (LD)  Neil Knowles (LI)</p> <p><b>Substitutes</b>  Any other councillor from the relevant Wards as listed</p>
<p><b>Constitution Working Group</b> (5 Councillors)</p> <p><i>(3 LD / 1LI / 1C)</i></p> <p><i>The informal Working Group is not formally subject to political balance rules but will be representative.</i></p>	<p><b>Chair:</b> Simon Werner</p> <p><b>Vice-Chair:</b> Adam Bermange (LD)</p> <p><b>Members:</b>  Lynne Jones (LI)  Maureen Hunt (C)  Mark Wilson (LD)</p> <p><b>Substitutes:</b>  David Buckley (LI)</p>

<b>Independent Remuneration Panel</b>	<b>Mr Karnail Pannu, Mr Chris Stevens and Mr Andrew Vallance (<i>N.B. no relation to RBWM Head of Finance</i>) (Chair)</b>
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**C – Conservative**

**LD – Liberal Democrats**

**LI – Local Independents**

**WWRA – West Windsor Residents Association**

**NFPP – National Flood Prevention Party**

## **PART 9 – MISCELLANEOUS ITEMS**

### **D – Constitution Version Control and Changes**

## Version Control

Version	Date	Authority	Changes	Relevant Part of Constitution
18.6	26/6/19 (CRWG)	Council	New Version	Various
19.1	8/4/19	MO in conjunction with Chairman of CSC (Article 14.2)	Proof-reading changes prior to publication	Various
19.2	31/5/19	Council 21/5/19	Cabinet, committee appointments	Part 9B
			Addition of Old Windsor to Windsor Town Forum wards covered	Part 6
			Reduction in Licensing Panel membership to 11	Part 6
19.3	27/6/19	Council 25/6/19	Reinstatement of supplementary questions for members of the public and Councillors	Part 2
		MO in conjunction with Chairman of CSC (Article 14.2)	Removal of reference to £40 allowance for ICO registration	Part 9A
			Amendment to Article 14 to correctly refer to Part 6 for ToR for CSC	Part 1
19.4	25/9/19	Council 24/09/19	Amendment to Terms of Reference for Area Forums	Part 6
	1/10/19	MO in conjunction with Chairman of CSC (Article 14.2)	Scrutiny Officer	Part 1
			Updated job titles as a result of restructure w.e.f. 1/10/19	Throughout
19.5	13/11/19	MO in conjunction with Chairman of CSC (Article 14.2)	Clarification of role of Chief Finance Officer	Part 5 para 7.4
		N/A	Appending of Cabinet role descriptions	Appended to Part 9C
20.1	3/1/20	Council 17/12/19	School Improvement Forum, Terms of Reference	Part 6
20.2	24/3/20	Council 18/3/20	Emergency Powers of MD	Part 5
		MO in conjunction	Removal of references to <i>Executive</i> Directors	Throughout



Version	Date	Authority	Changes	Relevant Part of Constitution
		with Chairman of CSC (Article 14.2)		
20.3	17/4/20	MO in conjunction with Chairman of CSC (Article 14.2)	Amendments to references to CLT to reflect new structure	Part 3B (5. Virement), Part 8A (8.1/14.1), Part 8C (F1.12/F2.53/F2.63)
			Clarification of role of MD in relation to ERO/RO role	Part 5 (Para 3)
20.4	28/5/20	Extraordinary full Council 26/5/20	Amendments to DM Panels – ToR, public speaking	Part 6 and Part 7F
20.5	24/6/20	Full Council 23/6/20	Various– see Council report	Parts 2, 3 ,4 ,5 ,6, 7A, 8A, 8C
20.6	30/7/20	Full Council 28/7/20	Amendments to Tor of Corporate O&S, establishment of Audit and Governance Committee; inclusion of Cabinet Transformation Sub Committee	Part 4B, Part 6, Part 8C, Part 3
20.7	30/10/20	Full Council 27/10/20	Amendments to TOR for Berkshire Pension Fund	Part 6A
	20/11/20	MO in conjunction with Chairman of CSC (Article 14.2)	Amendments to Allowances Scheme	Part 9A
			Clarification of appointment of Leader at Annual Council	Part 1A para 2.4, Part 1B Art. 6.3 and Part 2C para 1.1
20.8	15/12/20	MO in conjunction with Chairman of CSC (Article 14.2)	Editorial amendments to procedure rules for clarity	Part 2C: 13r, 14.7a/b, 14.8, 25.2
			Functions of full Council – updating to current policies	Part 1.1
			Contract Procedure rules – updated EU thresholds and new references to procurement portals	Part 8A
		MO in conjunction with Chairman of CSC (Article 14.2) <i>and</i>	Code of Conduct – add in mandatory equality and diversity training	Part 7 Av

Version	Date	Authority	Changes	Relevant Part of Constitution
		Full Council 27/10/20		
		Full Council 27/10/20 <i>(amendments delayed until all three councils agreed changes)</i>	AfC Joint Committee terms of reference	Part 6 C4
		Chairman of Cabinet	Updated Cabinet role descriptions	Addendum
20.9	10/3/21	Full Council 23.2.21	Member Allowances increased by 2% from 1 April 2021	Part 9A Paragraphs 4, 18 and Schedule 1
		Extraordinary Full Council 2.3.21	Delegation to RO to designate polling stations	Part 2B Table 2
21.1	4/5/21	Full Council 27.4.21	<p>Full Council rules of procedure/debate</p> <p>Petitions Protocol – changes to procedure incl. petitions for debate</p> <p>Managing Director job title changed to Chief Executive, updated CLT membership</p> <p>Deletion of Constitution Sub Committee</p> <p>Deletion of reference to Justices licence</p> <p>Code of Conduct – adoption of LGA Model code</p>	<p>Part 1A, Article 4; Part 2C</p> <p>Part 2C, Part 7G</p> <p>Part 1 CLT structure, all references throughout constitution</p> <p>Part 6</p> <p>Part 5</p> <p>Part 7A</p>
		MO in conjunction with Chairman of CSC (Article 14.2)	<p>Consequential amendments re change from the Constitution Sub Committee to Working Group</p> <p>References to 'Lead Member' amended to 'Cabinet Member'</p>	<p>Part 1A, Article 14</p> <p>Throughout</p>

<b>Version</b>	<b>Date</b>	<b>Authority</b>	<b>Changes</b>	<b>Relevant Part of Constitution</b>
21.2	1/8/21	MO in conjunction with Chairman of CWG (Article 14.2)	FOIA 2000 – qualified officer	Part 5
		Full Council 29/6/21	DM Committees	Part 2C29.4, Part 6B1 and Part 7F
21.3	9/12/21	Full Council 23/11/21	DM Committees – substitutes  Members Code of Conduct – recurring gifts  Communications Protocol	Part 6  Part 7A  New Part 7K
		MO in conjunction with Chairman of CWG (Article 14.2)	DM Committees -align with changes agreed June 2021  Updating CLT Members  Access to Information – confidential info – alignment with 10.1  New e-petitions website/contact details	Part 2C Table 2  Part 1A 11.2b)  Part 8E Para 23.1  Part 7G
22.1	22/2/22	MO in conjunction with Chairman of CWG (Article 14.2)	DM Committee registration of speakers only after agenda published  Contract rules – thresholds and waiver process	Part 7F  Part 8A
	1/4/22	Members' Allowance Scheme	Annual indexation	Part 9A
		Delegated authority to relevant Executive Director - Resources	Updates – Head of Revenues, Benefits, Library and Resident Services	Part 5B Addendum
22.2	24/5/22	Annual Council	O&S Panel structure	Part 1, Part 4A
22.3	24/10/22	Full Council 27/9/22	Members Allowance Scheme – removal of	Part 9A

Version	Date	Authority	Changes	Relevant Part of Constitution
			BWDMP SRA; requirement to notify HoG by 1 April each year if wish to renounce any allowances	
			Members Code of Conduct – interests to be declared	Part 7A
		MO in conjunction with Chairman of CWG (Article 14.2)	Members Code of Conduct – clarification of role of IP at Sub Cttee hearing; reference to multiple complainants	Part 7A
			Attendance sheet; cancellation of meetings	Part 2C
			Change of Director from Place to Resources	Part 8D, Para 3
			Updates to membership of HWB	Part 6 C3
22.4	2/12/22	Full Council 22/11/22  <i>and</i>  MO in conjunction with Chairman of CWG (Article 14.2)	Contract rules  Subsequent amendments relating to concession contracts	Part 8A
		MO in conjunction with Chairman of CWG (Article 14.2)	Restructured section for clarity - to reflect questions are responded to in writing and then supplementary questions are allowed  Membership of Cabinet Sub Committee  Named officer with delegated authority to agree interim grants to voluntary organisations; removal of reference to revenue grants and	

<b>Version</b>	<b>Date</b>	<b>Authority</b>	<b>Changes</b>	<b>Relevant Part of Constitution</b>
			frequency amended to as required	
22.5	12/04/23	MO in conjunction with Chairman of CWG (Article 14.2)	Change of Director from Resources to Place	Part 8D, Para 3
23.1	24/05/23	Annual Council	Political Balance & Appointments of Panels	Part 9B

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