

Public Document Pack



COTSWOLD
DISTRICT COUNCIL

Tuesday, 6 July 2021

Tel: 01285 623210 or 623236
e-mail - democratic@cotswold.gov.uk

COUNCIL

You are summoned to attend a meeting of the Full Council to be held at the Bouffleur Hall, Royal Agricultural University, Cirencester, Gloucestershire GL7 6JS on **Wednesday, 14 July 2021 at 6.00 pm.**

Rob Weaver
Chief Executive

To: All Members of the Council

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Committee Administrator know prior to the date of the meeting.

AGENDA

1. **Apologies**
2. **Declarations of Interest**
To receive any declarations of interest from Members and Officers, relating to items to be considered at the meeting.
3. **Minutes 11 – 28**
To confirm the minutes of the meetings of Council held on 17 March 2021 and 26 May 2021.
4. **Announcements from the Chair, Leader or Chief Executive (if any)**
5. **Public Questions**
To deal with questions from the public within the open forum question and answer session of fifteen minutes in total. Questions from each member of the public should be no longer than two minutes each and relate to issues under the Council's or Committee's remit. Any member of the public wishing to ask a public question is requested to contact Democratic Services by no later than 5.00pm the working day before the meeting.
6. **Member Questions**
7. **Affordable Housing Schemes - Expenditure of S106 Commuted Sums 29 – 46**
Purpose
To update Council on the Section 106 commuted sums for affordable housing and to seek Council approval for proposals for expenditure of unallocated funds.

Recommendations
That Council, as recommended by Cabinet:
 - a) notes the current position on Section 106 commuted sums as shown in Annex A
 - b) approves the allocation of a capital grant of £550,000 to redevelop a site of 24 existing homes to provide 28 new social rented homes in Moreton in Marsh as detailed in paragraph 2.3. The award of the capital grant to be included within the Council's capital programme and funded from the Section 106 commuted sums.
8. **Recommendations from Overview and Scrutiny Committee and Cabinet - Tetbury and Fairford Leisure Provision Task and Finish Group 47 - 52**
Purpose
The Overview and Scrutiny Committee set up a Task and Finish Group for Groups to review the approach taken to leisure provision in Tetbury and Fairford and establish any lessons learnt.

Cabinet considered these key lessons learnt on 7 June 2021 and subsequently recommend them to Council to support future commissioning and procurement activity.

Recommendations

That Council agree recommendations one to six and note the commentary at section five regarding future leisure provision.

9. **Funding for Improvement Works to Rissington Road Car Park, Bourton on the Water** 53 - 58

Purpose

To seek agreement to allocate capital and car parking earmarked reserve funds for improvements to Rissington Road Car Park, Bourton-on-the-Water.

Recommendation

That Council agrees the allocation of £245,000 of capital funding and £92,000 of car park earmarked reserve fund to make improvements to Rissington Road Car Park, Bourton-on-the-Water.

10. **Licensing Act 2003 - Review of the Statement Of Licensing Policy** 59 - 94

Purpose

The report details the proposed revisions to the Council's Statement of Licensing Policy (Licensing Act 2003), based on legislative requirements and statutory guidance.

Recommendation

That Council approves the reviewed Statement of Licensing Policy attached at Annex 'A'.

11. **Report of the Working Group Investigation Short Term Lets (STL)** 95 - 108

Purpose

To inform Members of the key findings of the Cross Party Working Group set up to look at the impact of properties let for short periods and in particular the implications for neighbours.

Recommendations

9. That Council authorises sending a letter to the local MP seeking his support regarding the changes to the legal position as outlined in this report;

10. That the Council consider the issues raised in the emboldened paragraphs of this report and as summarised at Annex B, and agrees whether further action should be taken; and

11. Taking account of any further actions required as a result of recommendation b), the Chief Executive reports back to Council with an action planning detailing how and when such actions will be progressed.

12. **Refresh of the Constitution: Responsibility for Functions, Non-Executive Scheme of Delegation to Officers, Planning Protocol, & Financial Rules** 109 - 312

Purpose

To update Council on the work and recommendations of the Constitution Working Group who have been modernising the Constitution.

Recommendations

That Council:

- I. Adopt the updated Responsibility for Functions at Appendix 2

- II. Adopt the revised Non-Executive Officer Scheme of Delegation at Appendix 4.
- III. Adopt the updated Planning Protocol at Appendix 6.
- IV. Adopt the updated Finance Rules at appendix 7.

Authorise that the Monitoring Officer:

- V. Be authorised to update the Constitution to reflect the inclusion commitments of the Council, changing *'he or she'* to *'he, she or they'* and change *'his or her'* to *'his, her or their'*.
- VI. be authorised to publish a final clean version of the constitution (removing track changes, correct any numbering, editing or formatting errors).

13. **Proposal for Loan Finance to Cottsway Housing Association 313 - 398**

Purpose

To consider a proposal to provide loan financing to Cottsway Housing Association Ltd through its subsidiary company, Cottsway 2. The lower cost of finance would enable the provision of green energy generation via solar PV installation on 15 houses at Davies Road, Moreton-in-Marsh.

Recommendations

That:

- (a) Council approves the loan arrangement; and
- (b) The loan is financed through Prudential Borrowing in line with the Council's Capital and Treasury Management Strategies;
- (c) That, subject to the approval by Council of recommendation (a), the negotiation of the detailed terms for the transaction be delegated to the Deputy Chief Executive, following consultation with the, Head of Legal Services, Monitoring Officer and the Deputy Leader and Cabinet Member for Finance;
- (d) The Audit Committee review performance as part of regular Treasury Management updates.

14. **Notice of Motions**

In accordance with Council Procedure Rule 12, the following Motions have been received:-

a) Motion – Scrap the Planning Act

Proposed by Councillor Rachel Coxcoon, Seconded by Councillor Joe Harris:

Council notes:

The significant concerns expressed through the ballot box in Chesham & Amersham over the Conservative Government's proposed Planning Reforms, including:

- Loss of democratic accountability within the planning system, under a proposed zoning system that would grant presumed consent to development in two of the three zones
- No commitment to using the planning system to tackle climate change, either through genuinely sustainable placemaking, or through the imposition of a building standards system that will deliver zero-carbon homes.

- The expansion of Permitted Development Rights under this Government, which have already led to the development of ‘modern day slums’.
- Widespread concerns and condemnation of the Planning White Paper proposals across Local Government, The Planning and Architecture Sector, and organisations concerned with protecting green spaces and heritage.

Council is concerned that:

Government proposals to deregulate planning will remove the rights of residents to influence or object to inappropriate development where they live.

The Government's proposals pass the costly burden of design codes from developers to local government, and result in codes that will hold no statutory weight.

The proposals in the White Paper, coupled with the weakness of the proposed Future Homes Standard and Design Codes and the ease with which Permitted Development Rights can now be used, means that the planning system is in danger of becoming an active enabler of the climate crisis, rather than part of the solution.

And finally,

That the proposals in the White Paper, designed principally to speed up the delivery of much needed housing, are doomed to fail on this crucial point, since the slow delivery of housing is demonstrably not a result of delays within the planning decision-making system. Rather, it is the result of land-banking and market manipulation by the development industry. Almost a million homes already have planning permission but have not been built out. Zoning, and thus the allocation of more land for housing, will secure land value increases for a small number of major development companies, but will not alter the speed at which housing comes to the market.

Council believes that:

Residents have the right to a say over development that will change the area they live in.

Local councils, in consultation with their businesses and residents are best placed to understand the issues in their area and respond with a spatial strategy tailored to that area.

The planning system is not fit for purpose if climate change is not the pre-eminent test in decision-making, and local planning authorities are not required to manage emissions through the planning system.

International evidence shows that zoning systems, far from producing the simplified system that advocates suggest, can often result in less transparent, less accountable decision-making than a discretionary, plan-led system.

The development industry, not the planning system, is the main cause of slow housing delivery.

Council calls for the Government to:

Scrap the proposals in the Planning White Paper and instead look to the proposals in the

2017 Raynsford Review of planning to shape a fairer, more sustainable, people-centred system.

Ensure that any re-imagined planning system has a statutory purpose at its heart, to be defined in the Planning Acts. We suggest the following, from the October 2020 Common Ground Publication:

“The purpose of the planning system is to positively promote the spatial organisation of land to achieve the long-term sustainable development of the nation and the health, safety and wellbeing of individuals. In the Planning Acts, ‘sustainable development’ means managing the use, development and protection of land, the built environment and natural resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs.”

And finally,

Ensure that the Planning Acts and the Climate Change Act are bound together in law, making climate change considerations a central test in any planning policy making and decision-making process.

b) Motion - Community Funding for the 2022 Queen’s Platinum Jubilee Celebrations

Proposed by Councillor Julia Judd, Seconded by Councillor Tony Berry:

“Council notes that The May Bank Holiday Weekend 2022 will be moved to Thursday 2 June 2022 and an additional Bank Holiday on Friday 3 June will see a four-day weekend to celebrate Her Majesty The Queen’s Platinum Jubilee - the first time any British monarch has reached this historic milestone.

This will also likely mark the first truly large community gathering since 2019 owing to the Covid-19 pandemic, so could arguably be considered a double celebration.

There is likely to be a strong appetite from communities to celebrate this milestone. There is no recent parallel for such an event, the closest being the Armistice commemorations and town and village parishes will benefit from a long lead-in time to plan, agree the format and cover issues such as road closures, refreshments and even catering.

This council therefore resolves to set aside specific community funding to support communities to run events over this weekend, enabling them to kick-start their plans to organise an event never to be forgotten.”

c) Motion – Cotswold Shopping Festival

Proposed by Councillor Richard Morgan Seconded by Councillor Stephen Hirst.

“After the successful vaccine rollout, it seems that the COVID-19 lockdown restrictions will be fully lifted on Monday 19 July (in what some people have labelled “Freedom Day”)

As we all know, throughout the pandemic many of our local businesses have been significantly impacted, and our high streets and town centres have been particularly hard hit.

As Freedom Day approaches, we believe that this Council has a duty to support our high streets and encourage people back into our town centres and help build consumer confidence. For this reason we would like to propose the following Motion:

- CDC launches a “**FREE FOR THREE**” parking scheme. This would involve offering free parking in CDC Car Parks for three days (Preferably a Friday, Saturday, Sunday long weekend).
- During the “Free for Three” period, CDC would also hire several local musicians, street performers and children’s entertainers to provide small scale, modest pop-up shows. These small business owners have also been hard hit during the pandemic so are worthy of support.
- Launch a social media campaign and a PR campaign to publicise a “Free for Three” shopping festival. The marketing to be themed around:
 - Visit our town centre and park for free.
 - Bring the whole family and enjoy some local street entertainers.
 - Do your shopping in our amazing shops and support small business owners.

Retail research has shown that if you can attract a customer to your shop three times, they become a loyal customer and visit again and again. For this reason, if the first “Free for Three” event is successful we should consider running it again. (Once a month for three months.)”

d) Motion – Dog Waste Bin Provision

Proposed by Councillor Julia Judd

“This Council notes that an unexpected consequence of Covid-19 has been an escalation in dog ownership. According to the Pet Food Manufacturers' Association over 12 million of us now own a dog and their Covid-19 Pet Survey confirms a staggering rise in pet acquisition with dogs being the most popular at 57%.

Many Cotswold parishes suffer from an over-supply of dog waste causing the bins to fill up quickly. It is common to see dog waste bags lying on the ground around overflowing bins, photos of this regularly appear on Social Media, especially in Tetbury.

It is also common to see filled dog waste bags hanging from trees, trodden into

footpaths, dropped in grit bins, left lying by gateways or on top of Cotswold stone walls. Requests from Parishes for extra dog waste bins and more frequent collections have been turned down, even if Parishes are prepared to pay for the new bins.

Waste collection is a core service which all Councils are expected to deliver, Council Tax Payers expect it and pay for it. It is a service which upholds the Council's Civic Pride agenda and is imperative for public health.

One Cotswold village was told 'we are currently unavailable to install any additional litter / dog waste bins.....we have had to put (this) in force across the whole of the district for various reasons and has been previously raised with Cabinet Member Cllr Andrew Doherty. As a result of COVID 19 we have received a high volume of requests for additional bins, we are unable to fulfil these requests at the present time as we have reached our limit on capacity and the amount of weight the vehicle can collect on each round. We are hopeful that with the easing of lockdown measures the volume of waste will reduce to pre-lockdown figures and we can start looking at getting any additional bin requests installed.' This response implies the Council considers that the problem might go away post Covid-19.

The Ubico team in Chipping Campden were surprised to hear from Cllr Blomefield that we have been told that collection efforts are at maximum capacity, as public bin waste is less than normal owing to there being fewer tourists over the pandemic.

New signs on the bins include information to contact the Council that the bin needs to be emptied and also to encourage people to take their dog waste bags home with them. This rather defeats the purpose of the bins in the first place but more to the point, many people will choose not to take them home, especially if they are travelling in a car, as it is such an unpleasant and potentially hazardous thing to do.

Waste collection is a mandatory, core service. Residents, especially those in towns and bigger villages are suffering from poor service. This situation needs resolving and I ask that Council resolves to approve the appropriate funding to ensure that sufficient bins are made available and regularly emptied before they overflow."

e) Motion – Planning Committee Protocol

Proposed by Councillor Steve Trotter

"This Council notes that concerns have been raised by Parish and Town Councils throughout the District regarding the revised process of referring applications to the Planning Committee.

The following protocol has been adopted by Stroud Council and is therefore tried and tested and demonstrated to be fit for purpose.

1. The delegation shall not apply to an application where the Chair of Development Control Committee ("DCC") (or in his/her absence the Vice Chair of the Committee)

having:

- (a) consulted the Head of Develop Management or the Development Manager;
- and
- (b) being satisfied that the application is a matter which should be considered by committee taking account of paragraphs 1 to 4 below requires that the application first be referred to DCC for consideration before determination.

2. Requirements for reference of items to DCC

2.1. Requests for items to be placed before the DCC may only be made to the Planning Manager, the Development Manager or the Chair of the DCC by:

- (a) the Parish or Town Council in which the application site is located, or
- (b) a Ward Councillor within whose ward the application site is located.

2.2. An application which the Head of Develop Management or Development Manager would otherwise consider it appropriate to determine pursuant to their delegation, should only be referred to committee where it has:

- (a) generated significant public interest which has given rise to contradictory views as to whether the application should be approved or refused; and
- (b) such interest is based upon material planning considerations

2.3. Any request for an application to be referred to committee must:

- (a) be made in writing (or by email);
- (b) include a summary of the reasons why it is considered the matter should be referred to committee;
- (c) be copied to the Head of Develop Management and the Development Manager;
- (d) be received by the Head of Develop Management and the Development Manager before the consideration of the proposal by the panel of planning officers who make recommendations to the said managers to ensure that the application is not determined prior to receipt of such request.
(Applications will not be placed before the panel until the expiry of the consultation period being at least 21 days after the relevant weekly list of applications).

2.4. An application may not be referred to committee pursuant to this Appendix if it concerns a matter of technical appraisal, fact or legal opinion; or is a Version: 22 October 2020 4.23 Section 4 - Appendices A and B Delegations to Officers application with fixed determination periods (e.g. notifications, approval of details reserved by conditions and minor amendments).

2.5. Ward Members are to be invited to the meeting of the Planning Review Panel to discuss their reasons for referral.

It is proposed that this Council replaces the existing protocol adopting the above protocol in it's place."

15. **Next Meeting - 22 September 2021 - 6pm**

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Council
17 March 2021



COTSWOLD
DISTRICT COUNCIL

Minutes of a meeting of Council held remotely on Wednesday, 17 March 2021.

Councillors present:

Nigel Robbins – Chair

Dilys Neill – Vice-Chair

Stephen Andrews
Julian Beale
Tony Berry
Gina Blomefield
Claire Bloomer
Ray Brassington
Patrick Coleman
Rachel Coxcoon
Tony Dale
Andrew Doherty

Mike Evemy
Jenny Forde
Joe Harris
Stephen Hirst
Robin Hughes
Roly Hughes
Nikki Ind
Sue Jepson
Julia Judd
Richard Keeling

Juliet Layton
Andrew Maclean
Nick Maunder
Richard Morgan
Richard Norris
Ray Theodoulou
Gary Selwyn
Lisa Spivey
Steve Trotter
Clive Webster

Officers present:

Chief Executive
Monitoring Officer
Managing Director
Strategic Manager
Executive Director - Commissioning

Deputy Chief Executive
Housing Manager
Democratic Services

CL.80 Apologies

Apologies were received from Councillors Mark Annett and Mark Harris.

CL.81 Declarations of Interest

Councillor Tony Berry declared an interest, as he was currently the Interim Chair of the Friends of the Corinium Museum.

CL.82 Minutes - 24 February 2021

RESOLVED that the Minutes of the Meeting of Council held on 24 February 2021 be approved as a correct record.

Record of Voting – for 30, against 0, abstentions 0, absent 4.

CL.83 Announcements from the Chair, Leader or Chief Executive

The Leader thanked everyone in the NHS and all volunteers, for their hard work in making the vaccination programme a success.

He thanked Val Brassington, for her service to the Council in Development Management over 35 years and wished her well in her retirement.

He also thanked Christine Gore, who was retiring from her role as Executive Director. Whilst in her role as Interim Chief Executive, the advice, hard work and dedication had been evident and well received, particularly in a difficult year, throughout the Pandemic.

He announced that the new Cabinet Support Officer had been appointed.

There were no announcements from the Chair or Chief Executive.

CL.84 Public Questions

A record of public questions and answers are available in the schedule attached to these minutes. Questions were asked by Rebecca Halifax and David Fowles to Councillor Joe Harris, Leader of the Council, Rob Gibson to Councillor Jenny Forde, Cabinet Member for Health and Wellbeing and Tim Gilling to Councillor Webster, Cabinet Member for the Planning Department and Town and Parish Councils.

CL.85 Member Questions

A record of Member questions and answers are available in the schedule attached to these minutes. Questions were asked by:

- Councillor Nikki Ind to Councillor Rachel Coxcoon, Cabinet Member for Climate Change and Forward Planning and Councillor Lisa Spivey, Cabinet Member for Housing and Homelessness.
- Councillor Julian Beale to Councillor Tony Dale, Cabinet Member for Economy and Skills
- Councillor Steve Trotter to Councillor Juliet Layton, Chair of Planning and Licensing Committee.
- Councillors Tony Berry, Claire Bloomer and Roly Hughes to Councillor Joe Harris, Leader of the Council.
- Councillor Juliet Layton to Councillor Mike Evely, Deputy Leader and Cabinet Member for Finance.
- Councillor Mark Harris to Councillor Andrew Doherty, Cabinet Member for the Environment, Waste and Recycling.

CL.86 Ubico Contract Extension

Councillor Doherty introduced this item, highlighting that the current contract with Ubico, the Council's primary service partner for waste, cleansing and cemeteries, ended on 31 March 2022. The recommendation was that the contract be extended by 5 years, noting that the Council was a shareholder and had a good relationship with Ubico, who had an embodied knowledge of the District. As a shareholder, the Council would have influence in how the company provides the services. There was a potential, in the future, to look at pooling and procurement on behalf of the shareholders, to make services more cost effective throughout Gloucestershire.

Councillor Bloomer seconded the recommendation noting that over the past year, the teams had done exceptionally well through difficult circumstances.

The Council thanked all the Ubico teams for their hard work during the last 12 months, when problems arose they always worked hard to carry out their roles effectively and efficiently.

RESOLVED that the current Ubico contract be extended by 5 years from 1st April 2022 until 31st March 2027, with a break clause at 2 years, as contained within Annex A of the report.

Record of Voting – for 32, against 0, abstentions 0, absent 2.

CL.87 Update to Council Contract Rules

Councillor Evemy introduced the report, highlighting that a review of the contract rules should take place every five years. The Procurement Team had worked on reviewing the contract rules in the light of the UK's withdrawal from the EU. Audit Committee had also reviewed them. Amongst the changes, one of the main alterations was for contracts between £10,000 and £25,000, to obtain three written quotes. Contracts above £25,000 there would be subject to a competitive tendering process.

This was seconded by Councillor Coleman who commended the contract rules to fellow Councillors.

RESOLVED that the updated Contract rules be approved.

Record of Voting – for 32, against 0, abstentions 0, absent 2.

CL.88 Change of Parish Council Name - Kemble Parish Council

Councillor Webster introduced this report, commenting that residents of Kemble and Ewen consider themselves to be one community, this would also make sure that neighbourhood plans match reality.

Councillor Berry seconded the proposal, commenting that this would be an exciting future for the communities.

RESOLVED that the change of name from Kemble Parish Council to Kemble and Ewen Parish Council be approved.

Record of Voting – for 32, against 0, abstentions 0, absent 2.

CL.89 Planned Expenditure of the Homeless Prevention Grant 2021-22

Councillor Spivey introduced the report explaining that the proposed expenditure of the grant would mean that the Council could plan how to use the monies to help the most vulnerable in communities of the District. Initially the money would be used to resource a shared post for an Officer to help prevent homelessness, helping people into more temporary accommodation and also helping people who may need more permanent accommodation.

This was considered by all Councillors to be a positive move by the Government, as every person who becomes homeless was a tragedy. Concern was expressed that when people become homeless and a home is found, occasionally this could be outside the District and away from support networks, it was reiterated that wherever possible people should remain in the District, close to their support networks.

RESOLVED that in order for the Council to meet the expectation set by the MHCLG, the Homelessness Prevention Grant be allocated as follows:

| | |
|--|-----------------|
| Complex Case Prevention Officer - New post 1 year fixed term | £33,000 |
| Flexible Prevention Fund | £48,271 |
| Private Rented Deposit Fund | £20,000 |
| B&B Move on Fund | £10,000 |
| Shared Temporary Accommodation Move on Officer - Two New One year fixed term Posts | £22,000 |
| Total: | £133,271 |

Record of Voting – for 32, against 0, abstentions 0, absent 2.

CL.90 Adoption arrangements for Assessing Allegations under the Code of Conduct

Councillor Coleman introduced the report and explained that this completed the work of the Audit Committee and recommended it for approval.

RESOLVED that the arrangements for dealing with complaints under the Code of Conduct about District and Town & Parish Councillors, be adopted.

Record of Voting – for 32, against 0, abstentions 0, absent 2.

CL.91 SLM Financial Support - April 2021 - July 2021

Councillor Every introduced this report noting that this was the third report and was very much hoping that it was the last time that the Council would be discussing financial support for the leisure contractor SLM. The facilities were very important for residents and as soon as restrictions allowed, the leisure centres would open. The request was for additional funding from April to July 2021, and for the funding for the November 2020 to March 2021 period to be used across the period, rather than on a fixed month by month basis. The change for the November 2020 to March 2021 period reflected the fact that at the time of the Council approving the funding for the period, the SLM forecast did not foresee the loss in visits to the centres between January and March 2021 as a result of a third national lockdown.

The Museum had received £110,000 from the Culture Recovery Fund. The Government road map currently allowed the Gyms and Swimming provision to open on 12 April 2021, with the Museum opening on 7 May 2021. He reiterated that it was the Council's responsibility to support the leisure centres and museum, as they were in the Council's ownership. There were Government grants to support this funding and a financial summary was set out in the report.

Councillor Forde seconded the recommendations.

Councillor Andrews referred back to a previous Council meeting on 21 October 2020, that resolved to set up a cross party Member Working Group to consider an appraisal of the options to be considered in Quarter 3 of 2021. He commented that this group had not yet been set up and future arrangements should be measured, in order to have a better understanding of the leisure provision.

'The cross-party Working Group that is to be established by June 2021 as part of the Cabinet approved Cotswold Leisure Strategy shall monitor the delivery of that agreement.'

Councillor Theodolou seconded the amendment, highlighting his concern that there should be a better understanding of the support the Council was giving to such a big company as SLM. He supported this amendment as it was incumbent on the Council to support the leisure centres.

The Monitoring Officer clarified with Councillor Andrew that the amendment related only to the monitoring of the legal agreement in paragraph (e) of the recommendations and not the whole agreement.

The meeting adjourned at 8.10pm for members to discuss the proposed amendment and reconvened at 8.30pm.

Following the adjournment Councillor Every commented that the Leisure Strategy was passed by the Cabinet and the Working Group would look at the future leisure provision for the District, not scrutinise the finances of the existing contractor, Officers would perform the due diligence work on the contractor. The amendment would not be accepted, as it was not considered that the Working Group was the appropriate methodology for monitoring the agreement, there were provisions in the Overview and Scrutiny process to scrutinise issues such as this.

Following debate, Councillor Andrews wanted the amendment to stand and a vote was taken:

On being put to the vote, the record of voting was as follows: for 14, against 17, abstention 0, absent 2; 1 Member could not vote due to technical reasons. The vote on the amendment was LOST.

Councillor Forde in seconding the proposals commented that the leisure centres needed to open as soon as possible. She thanked Officers for their work on monitoring the contract and highlighted that the Council was awarded funding for the Museum to be able to reopen, in August last year, it was important for the residents of the District to have the centres reopen. She was hoping that there would be no need to discuss this issue again.

Councillor Every summed up, commenting that this had been a costly exercise for the Council, it was hoped that some Government support would be available and he, too, hoped this would be the last time this issue would be discussed, although it was right thing to do to support the centres, in order for them to re-open.

RESOLVED that:

- (a) the financial support package for SLM for April 2021 - July 2021, at a capped total cost of £280,403, be approved;
- (b) the requirement for SLM to pay the Council a monthly management fee of £10,462 for the period 1 April 2021 to 31 July 2021 (total lost income to the Council of £41,848) be waived;
- (c) the financial support package for SLM for November 2020 - March 2021 be adjusted to be capped at a total cost of £291,000 (rather than to be capped on a monthly basis) be approved;
- (d) Council approves a profit share mechanism to recover the support offered to SLM as set out at recommendations a) and b). The Council will be entitled to take a 75% share of profits in excess of the tendered financial submission until the funding is recovered;
- (e) authority to finalise and sign an agreement with SLM confirming the terms upon which this financial package is based, be delegated to the Deputy Chief Executive in consultation with the Deputy Leader of the Council or in his absence with the Cabinet Member for Health and Wellbeing.

Record of Voting – for 32, against 0, abstentions 0, absent 2.

CL.92 Affordable Housing Schemes - Expenditure of S106 Commuted sums

Councillor Spivey introduced the report explaining that affordable housing was one of the Council's key priorities. This proposal would deliver, truly affordable homes for social rent. The money would be spent to provide 15 homes for social rent for local people in Moreton in Marsh and homes in Avening, for shared ownership and social rent. She was also requesting that the Council commit to enhancements to these properties to tackle climate change.

Councillor Coxcoon seconded the proposals commenting that social housing in Moreton in Marsh and Avening was needed, it was regrettable that some green space would be lost in Moreton in Marsh, but was necessary to gain the social housing.

Councillor Morgan, Ward Member for Avening commented that something better could be done to enhance the housing and proposed an amendment to add another recommendation, which read:

'(g) approves new negotiations to commence with the developer to provide enhanced environmental and sustainability "bolt on" items (up to a maximum value of £40,000) for the 14x houses at The Sunground in Avening. The additional environmental bolt on's (like solar panels or rainwater harvesting for example) will be funded directly by Cotswold District Council in line with the Council's priorities and climate emergency declaration and in consultation with the Cabinet Member for Housing and Homelessness and the Cabinet Member for Climate Change and Forward Planning. The additional items should be bolt on extras, and they should not interfere with the existing planning consents or slow down construction of these new homes in any way.'

Councillor Hirst seconded this amendment.

Following debate, Officers confirmed that the recommendations included air source heat pumps, rainwater harvesting and external charging points for electric vehicles. Solar panels could be included and were affordable within the £400,000 allocated.

On this assurance from the Officers which would be recorded in the minutes Councillor Morgan withdrew the amendment, commenting that this would be a unique opportunity for residents of his ward.

Councillor Spivey summed up, commenting that this was an excellent opportunity, which was desperately needed for the District.

RESOLVED that:

- (a) **the current position on Section 106 commuted sums as shown in Annex A, to the report, be noted;**
- (b) **the allocation of a capital grant of £478,500 to develop 15 social rented homes in Moreton in Marsh as detailed in paragraph 2.4.4 of the report, be approved. The**

award of the capital grant to be included within the Council's capital programme and funded from the Section 106 commuted sums;

- (c) the allocation of a further capital grant of £102,000 to enhance the environmental sustainability of 15 social rented homes in Moreton in Marsh as detailed in paragraph 2.4.5, of the report, be approved. The award of the capital grant to be included within the Council's capital programme and funded from the Section 106 commuted sums;
- (d) the allocation of a capital grant of up to £400,000 to deliver affordable housing at The Sunground, Avening, be approved. The award of the capital grant to be included within the Council's capital programme and funded from the Section 106 commuted sums;
- (e) delegated authority, be granted, to the Chief Executive, in consultation with the Cabinet Member for Housing and Homelessness to approve the final amount of grant to the Registered Provider for The Sunground, Avening scheme up to £400,000;
- (f) delegated authority, be granted, to the Chief Finance Officer to update the Capital and Treasury Management Strategies accordingly.

Record of Voting – for 31, against 0, abstentions 0, absent 2.

1 Member could not vote due to technical issues.

CL.93 Next meeting - Annual General Meeting - Wednesday 26 May 2021, 2.00pm

The Meeting commenced at 6.00 pm and closed at 9.35 pm

Chair

(END)



Council
26 May 2021

Minutes of the Annual Council Meeting held at Cirencester Baptist Church on Wednesday, 26 May 2021.

Councillors present:

| | | |
|--------------------------------|---------------------|--------------------------------|
| Nigel Robbins - retiring Chair | Dilys Neill - Chair | Nikki Ind - Vice-Chair |
| Stephen Andrews | Mike Evey | Juliet Layton |
| Tony Berry | Jenny Forde | Nick Maunder |
| Gina Blomefield | Joe Harris | Richard Morgan |
| Claire Bloomer | Stephen Hirst | Richard Norris |
| Ray Brassington | Robin Hughes | Ray Theodoulou |
| David Cunningham | Roly Hughes | Gary Selwyn |
| Patrick Coleman | Sue Jepson | Lisa Spivey |
| Rachel Coxcoon | Julia Judd | Steve Trotter |
| Tony Dale | Richard Keeling | Clive Webster (from 2.30pm) |
| Andrew Doherty | | |

Officers present:

| | |
|---|--------------------------------|
| Chief Executive | Deputy Chief Executive |
| Monitoring Officer Democratic Services | Interim Head of Legal Services |

CL.1 Apologies

Apologies had been received from Councillor Maclean.

CL.2 Declarations of Interest

There were no declarations of interest by Members or Officers.

CL.3 Election of Chair of the Council

The Vice-Chair took the Chair and then reported/invited nominations for Chair of the Council for the ensuing year. Councillor Dilys Neill had been Proposed by Councillor Joe Harris and Seconded by Councillor Layton. They commented that Councillor Neill was an experienced Member of the Council and had served diligently as Vice-Chair of the Council since 2019.

In the absence of further nominations, it was

RESOLVED that Councillor Dilys Neill be elected Chair of the Council, to hold office until the Annual Meeting of the Council in May 2022.

Notes:

- (i) Councillor Neill read out the Declaration of Office, which she duly signed.
- (ii) Councillor Neill then took the Chair.
- (iii) Councillor Neill thanked Members for electing her as Chair of the Council and explained that it was a matter of pride to represent the Council.

CL.4 Appointment of Vice-Chair of the Council

The Chair reported/invited nominations.

Councillor Nikki Ind had been Proposed by Councillor Neill and was Seconded by Councillor Hirst.

In the absence of further nominations, it was

RESOLVED that Councillor Nikki Ind be elected Vice-Chair of the Council, to hold office until the Annual Meeting of the Council in May 2022.

Note:

Councillor Ind then read out the Declaration of Acceptance of Office, which she duly signed.

CL.5 Announcements from the Chair, Leader or Chief Executive

Announcements from the Chair:

The Chair welcomed Members and Officers to the meeting and members of the public watching the livestream online. She thanked the Council for electing her as Chair of Council and advised that she was the first female Chair of Council for over 10 years and advised that she would be speaking with Councillor Jepson as a former female Chair of Council for advice in the future.

The Chair welcomed Angela Claridge, Interim Monitoring Officer, to the meeting and explained that she looked forward to working with her going forward.

The Chair advised that the former Council Chair's Awards which had been instigated by former Council Chair and Councillor Julian Beale would be re-starting and would combine with a Covid-19 awards scheme to recognise the contribution made by the District's residents during the pandemic. The Chair advised that a cross party working group would be established shortly.

Thanks were extended by the Chair to Councillor Robbins for his work as Chair during the lockdown, particularly in reference to the meetings he had chaired over the past year, all of which had been held virtually.

The Chair then paid tribute to the work of former Councillor and Council Chair Julian Beale who had resigned from the Council in March 2021 due to ill health. The Chair advised that Julian had been a Conservative Councillor for the Fossebridge Ward since 2012 having been elected in a by-election on 31 May 2012. In that time, he held a number of positions, including Chair of the Licensing Committee between 2014 and 2015, Vice-Chair of the Council between 2015 and 2017 and subsequently Chair of the Council between 2017 and 2019. During his time as Chair of the Council, Councillor Beale instigated the launch of a community awards scheme, which sought to find the District's greatest champions who helped to make the area a better place to live. The scheme culminated in an awards evening held at the Royal Agricultural University in November 2018 at which the seven awards were presented.

All those present joined a round of applause in tribute to former Councillor Beale's efforts.

The Chair welcomed Councillor David Cunningham as the new Ward Member for Fossebridge to his first meeting of the Council.

The Chair then advised Members that this would be the last meeting supported by Democratic Services Officers Ben Amor and Kathryn Skill. She extended her thanks to both Officers for their work during their time at the Council.

Councillor Layton also paid tribute to both Officers and, in particular, highlighted the support they had given to her as Chair of the Planning and Licensing Committee during the past Council year when Committee meetings had been required to be held virtually and the challenges that had been overcome.

Councillor Morgan, as Leader of the Opposition Group, was invited to address the Council. He echoed the various tributes paid and commended the re-introduction of the Chair's Awards Scheme.

Announcements from the Leader:

The Leader echoed previous tributes and in doing so, expressed his admiration to those in the District who had helped to tackle the Covid-19 pandemic and in particular key workers and extended his thanks to them.

All those present joined a round of applause in tribute to those affected, and who had supported the District's approach to tackling the Covid-19 pandemic.

The Leader thanked the staff at Cirencester Baptist Church and the Barn Theatre for enabling the meeting to take place and extended his congratulations to Councillors Hirst and Spivey for their recent election to Gloucestershire County Council.

Announcements from the Chief Executive:

The Chief Executive echoed previous tributes paid by the Chair and Leader and extended his thanks to Members for their support during his first five months in office.

The Chair then invited Councillor Forde to address the Council. Councillor Forde advised on the upcoming Cotswold Youth Roadshow taking place and explained that

13 venues across the District would be visited and that Member support would be welcome.

CL.6 Record of Attendances and Decisions of the Leader and Individual Cabinet Members

The Council received the Record of Attendances at Meetings during the past Council Year and details of the decisions taken by the Leader and Cabinet Members.

CL.7 Appointment of Cabinet

It was noted that Councillor Joe Harris, as Leader of the Council, had made the following Cabinet appointments for the 2021/22 Council Year:-

| Councillor | Portfolio Area |
|----------------------------|--------------------------------------|
| Mike Every (Deputy Leader) | Finance |
| Rachel Coxcoon | Climate Change and Forward Planning |
| Tony Dale | Economy and Council Transformation |
| Andrew Doherty | Environment, Waste and Recycling |
| Jenny Forde | Health and Wellbeing |
| Juliet Layton | Development Management and Licensing |
| Lisa Spivey | Housing and Homelessness |

The Leader reported that the majority of Cabinet roles remained unchanged but that Councillor Layton replaced Councillor Webster as Cabinet Member with responsibility for planning. The Leader extended his thanks to Councillor Webster for his previous service on the Cabinet and advised that Councillor Layton brought a wealth of planning experience with her having previously served as both Chair and Vice-Chair of the Planning and Licensing Committee and as a Committee Member since her election in 2011.

The Leader also advised that responsibility for licensing matters would transfer from Councillor Doherty's portfolio to Councillor Layton in addition to responsibility for the Cotswold Water Park, which would transfer from Councillor Every's portfolio. Councillor Dale would now have responsibility for internal transformation and service design; young people would transfer from Councillor Dale to Councillor Forde and town and parish council liaison would now transfer to the Leader.

CL.8 Political Composition of the Council and Formation of Political Groups

The Council received the notifications received under Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 giving the composition of political groups.

RESOLVED that the report be noted.

CL.9 Appointment of Committees

The Council was requested to make appointments to the various Committees of the Council for the 2021/22 Municipal Year.

The Leader reported that discussions had taken place prior to the meeting between himself, the Chief Executive and Councillor Morgan as Leader of the Opposition Group regarding Committee appointments. The Leader advised that it was hoped the Council would appoint all Committee Chairs, Vice-Chairs and memberships en bloc.

It was then Proposed and Seconded that the Committee appointments as circulated be approved.

RESOLVED that Council:

- a) **Determine that, in accordance with Section 15 of the Local Government and Housing Act 1989 (“the Act”), the Council shall continue to apply the political balance provisions under the Act;**
- b) **Appoint Councillors, Committee Chairs and Vice-Chairs to serve on the Council’s Committees for a term of office expiring at the next Annual Meeting of the Council.**

Record of Voting - for 33, against 0, abstentions 0, absent 1.

Note:

Appointments were made as follows:

Planning and Licensing Committee

Chair: Ray Brassington

Vice-Chair: Julia Judd

| Liberal Democrats (6) | Conservative (4) | Non-Grouped (1) |
|------------------------------|-------------------------|------------------------|
| Ray Brassington | Stephen Hirst | Andrew Maclean |
| Dilys Neill | Sue Jepson | |
| Patrick Coleman | Julia Judd | |
| Gary Selwyn | Steve Trotter | |
| Juliet Layton | | |
| Clive Webster | | |

Overview and Scrutiny Committee

Chair: Stephen Andrews

Vice-Chair: Gary Selwyn

| Liberal Democrats (5) | Conservative (4) | Non-Grouped (1) |
|-----------------------|------------------|-----------------|
| Claire Bloomer | Stephen Andrews | Nikki Ind |
| Patrick Coleman | Gina Blomefield | |
| Roly Hughes | Richard Norris | |
| Gary Selwyn | Ray Theodoulou | |
| Nigel Robbins | | |

Audit Committee

Chair: Patrick Coleman

Vice-Chair: Nigel Robbins

| Liberal Democrats (4) | Conservative (3) | Non-Grouped (0) |
|-----------------------|------------------|-----------------|
| Patrick Coleman | Stephen Andrews | |
| Mark Harris | Tony Berry | |
| Nick Maunder | Ray Theodoulou | |
| Nigel Robbins | | |

CL.10 Appointment to the Independent Remuneration Panel

The Council was requested to appoint Mr. Richard Blamey to be a member of the Independent Remuneration Panel following the resignation of Panel Member Mr. Simon Harper and to request the Panel to carry out a review of Councillor allowances.

The Deputy Leader and Cabinet Member for Finance introduced the report and explained that Members' Allowances were a politically controversial topic and the matter had last been debated by the Council in May 2019, following a review by the IRP in 2018. He added that it had been three years since the last review and that there had been much change within the Council since then. He added that Mr. Blamey had great deal of experience in working on IRPs and asked Council to note the £250 that would be paid to each of the three Panel Members as a one-off payment as remuneration for their work in undertaking the review.

Councillor Morgan explained that whilst his Group had no objection to the report, the Group did not feel the time was correct given the Council's current recovery from the Covid-19 pandemic.

Councillor Spivey seconded the proposals and advised that the recommendations supported previous decisions by the Council and would enable a full debate of Members' allowances at the Council meeting in September 2021 at which the report of the IRP would be presented.

RESOLVED that, the Council:

- A.) Appoints Mr. Richard Blamey as the third member of the Independent Remuneration Panel with immediate effect;**
- B.) asks the Independent Remuneration Panel to carry out a review of Councillor allowances and bring a report back to Council by September 2021;**
- C.) authorises a one off payment of £250 to be paid to all members of the Independent Remuneration Panel.**

Record of Voting - for 33, against 0, abstentions 0, absent 1.

CL.11 Appointment of the Interim Monitoring Officer

The Council was requested to appoint an interim Monitoring Officer in accordance with statutory requirements.

The Chief Executive introduced the report and explained that the appointment of an Interim Monitoring Officer would enable the Council's Senior Management Team to better understand what management was required for the Council going forward to deliver on the 2019 Corporate Plan.

The Leader proposed the recommendations and in doing so, thanked previous Interim Monitoring Officer Pat Arran for his work with the Council. The Deputy Leader then seconded the proposition.

Councillor Theodoulou questioned the decision to appoint a further Monitoring Officer on an interim basis and questioned why a decision was not being made to appoint a full-time Officer. In response, the Chief Executive explained that once a review of senior management requirements had been undertaken, the expectation was that a Monitoring Officer would be appointed on a permanent, full-time basis.

RESOLVED that, in accordance with Section 5 of the Local Government and Housing Act 1989, the Council confirm the appointment of Angela Claridge, as the Council's interim Monitoring Officer until such time a permanent appointment has been made.

Record of Voting - for 33, against 0, abstentions 0, absent 1.

CL.12 Funding and Contract Changes to support BEIS Public Sector Decarbonisation Scheme

A report was presented to Council to seek contingency funding to support the installation of carbon reduction measures in the Council's buildings as part of the BEIS decarbonisation scheme and to seek delegated authority to negotiate a contract variation with the Council's leisure provider, SLM, to ensure requirements of grant funding are met.

The Cabinet Member for Climate Change and Forward Planning introduced the report and highlighted various aspects, including the need for the Council to act quickly to ensure appropriate and timely delegation to Officers. She then proposed the recommendations to Council for approval.

The Deputy Leader seconded the recommendations and explained that the timescales for the Scheme were very tight and highlighted that if the deadline of 30 September 2021 was not met, then the Council would need to fund the Scheme itself.

Councillor Cunningham questioned the risk of funding failing to be secured for the Scheme. In response, the Deputy Chief Executive in her role as the Council's Chief Finance Officer responded that the Chief Executive and herself had been lobbying the Local Government Association and the local MP, alongside other authorities, in the hope of an extended deadline being agreed to by BEIS. They also advised that the contingency fund was being funded from a re-allocation of the Council's Capital Programme.

Councillors commented that the item was first considered by the Cabinet at its meeting on 1 March 2021 and at which point seven key actions had been identified. In response, the Chief Executive confirmed that he received regular updates in relation to the project's direction and that he was confident these actions had been undertaken.

Other Councillors highlighted that regardless of whether the Council was successful in acquiring the funding, the environment could not wait and therefore action needed to be undertaken urgently.

Councillor Coxcoon was invited to address the Council again and echoed the comments that action needed to be undertaken urgently and urged the Council to support the recommendations.

RESOLVED that Council:

- A) proceed with the planned decarbonisation installation noting the financial risks surrounding withdrawal of funding should delivery fail to meet the grant funding completion deadline;**
- B) allocate a contingency sum of £120,000 (12.5% of works capital costs) to support delivery and avoid unnecessary delays if costs exceed initial estimates and grant funding provided - any expenditure of this contingency to be agreed by the Deputy Chief Executive/Chief Finance Officer in consultation with the Cabinet Member for Finance;**
- C) Reallocate £120,000 in the Capital Programme from the £980,000 available for "Acquisition of a Strategic site at Moreton-in-Marsh" to the contingency for the decarbonisation scheme;**
- D) Note that a variation to the SLM leisure services contract is necessary to enable utility costs to be paid by the Council and agrees that management fees payable to the Council are adjusted accordingly.**

Record of Voting - for 33, against 0, abstentions 0, absent 1.

CL.13 Next meeting - Wednesday 14 July 2021, 6.00pm

The Meeting commenced at 2.00pm and closed at 3.37pm

Council
26 May 2021

Chair

(END)

Unconfirmed

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Agenda Item 7

| | |
|---|--|
|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL – 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 07</p> |
| <p>Subject</p> | <p>AFFORDABLE HOUSING SCHEMES - EXPENDITURE OF S106 COMMUTED SUMS</p> |
| <p>Wards affected</p> | <p>ALL</p> |
| <p>Accountable member</p> | <p>Cllr Lisa Spivey Cabinet Member for Housing and Homelessness Email: lisa.spivey@cotswold.gov.uk</p> |
| <p>Accountable officer</p> | <p>Claire Locke, Group Manager - Commissioning Tel: 01285 623427 Email: claire.locke@publicagroup.uk Anwen Hughes, Strategic Housing Manager Tel: 01285 623121 Email: anwen.hughes@publicagroup.uk</p> |
| <p>Summary/Purpose</p> | <p>To update Council on the Section 106 commuted sums for affordable housing and to seek Council approval for proposals for expenditure of unallocated funds.</p> |
| <p>Annexes</p> | <p>Annex A - S106 Commuted Sums for Affordable Housing</p> |
| <p>Recommendation/s</p> | <p>That Council, as recommended by Cabinet:</p> <ul style="list-style-type: none"> a) notes the current position on Section 106 commuted sums as shown in Annex A b) approves the allocation of a capital grant of £550,000 to redevelop a site of 24 existing homes to provide 28 new social rented homes in Moreton in Marsh as detailed in paragraph 2.3. The award of the capital grant to be included within the Council’s capital programme and funded from the Section 106 commuted sums. |
| | <ul style="list-style-type: none"> b) grants delegated authority to the Chief Finance Officer to update the Capital and Treasury Management Strategies accordingly |

| | |
|-----------------------------|--|
| Corporate priorities | <p>Providing good quality social rented homes.</p> <p>Responding to the challenges presented by the climate change emergency</p> |
| Key Decision | YES |
| Exempt | NO |
| Consultees/ Consultation | <p>Cabinet Member for Housing and Homelessness / Cabinet Member for Climate Change and Forward Planning</p> <p>Ward members</p> <p>Senior Officers</p> |

1. BACKGROUND

- 1.1. In accordance with Cotswold Local Plan policy for affordable housing, in exceptional circumstances, the Council may opt to enter into a Section 106 Agreement with the developer to make a payment to the Council in lieu of the provision of on-site affordable housing. These funds are known as Section 106 commuted sums. The Section 106 Agreement specifies the amount of the commuted sum, the date for payment, the time by which the sum is to be spent, how the sum may be spent and where the affordable housing may be provided with the use of the sum.
- 1.2. A key focus of central government housing policy in recent years has been on the overall supply of housing. The focus on Affordable Rent and affordable home ownership products has meant that new supply of homes for social rent has declined. Under the affordable rent model, housing associations can offer tenancies at rents of up to 80% of market rents within the local area. The additional finance raised is available for reinvestment in the development of new affordable housing, replacing the previous model of capital grant subsidy.
- 1.3. While supporting increases in supply, the affordability of rents at up to 80% of market rents is challenging in high cost areas such as Cotswold District. Social rented housing has historically delivered rents at around 50% of market rates, delivering housing that is genuinely affordable to improve living standards and address housing deprivation. This has been given new impetus with evidence pointing to connections between inadequate housing and poor health outcomes in the context of Covid-19.
- 1.4. In 2019, the Council identified the delivery of good quality social rented homes as a key focus in delivering its Corporate Plan. Social rented housing is that which is owned by Local Authorities or Private Registered Providers and is provided at a rent which is typically lower than Affordable rent. The Corporate Plan sets out a number of actions against this.
- 1.5. The Council aims to deliver additional social rented and affordable housing, which would not be brought forward without the Council's intervention and has identified a strategy for doing this against which potential schemes can be evaluated, which was adopted at Cabinet on 8th February 2021.

2. MAIN POINTS

- 2.1. In order to deliver against its Housing priority the Council is working in partnership with Developers and Registered Providers to deliver additional social rented housing and actively encouraging carbon neutral or low carbon homes for people on low incomes. This is currently through negotiation and work to embed carbon reduction requirements within a development policy framework through updating the Council's Local Plan.

Commuted Sums Position Statement - March 2021

- 2.2. Annex A provides a position statement as at March 2021 on the Section 106 Agreements relating to affordable housing commuted sums.

Proposals for Expenditure of Section 106 Commuted Sums received

2.3. Stockwells, Moreton-in-Marsh

- 2.3.1. Stockwells is a residential cul-de-sac located to the east of Moreton-in-Marsh town centre. At the southern end are 24 homes of prefabricated “Cornish” construction, built in the 1950s, owned by Bromford Housing Association. The houses along the northern end of the cul-de-sac are privately owned and have been built to a more traditional design in a buff brick, reflecting the wider locality.
- 2.3.2. The “Cornish” non-traditional construction is prone to deterioration and the properties are not energy efficient. After considering customer and future maintenance requirements, Bromford, subject to Planning Consent, intends to regenerate the area by demolishing the 24 existing homes and replacing them with 28 modern, energy efficient homes which are affordable for tenants to run.
- 2.3.3. Bromford have undertaken a consultation exercise with their customers and the one homeowner affected by the proposals and is helping them to move into suitable alternative accommodation to enable the redevelopment of the site.
- 2.3.4. To support the Council to meet its Climate Emergency Strategy, Bromford has been working on how the introduction of Modern Methods of Construction (MMC) can support the move towards delivering net zero homes today. The Stockwells regeneration scheme represents an opportunity for Cotswold District Council and Bromford to create the first social rented, MMC net zero homes within the District.
- 2.3.5. The new social rented homes will be built to a high fabric specification, using an off-site manufactured system, reducing heating bills, carbon emissions and increasing indoor comfort. The homes will be precision engineered around a galvanised steel frame in a dry, clean workspace, delivering reliably consistent, high standard homes, fast.
- 2.3.6. Factory-built homes are helping to tackle the UK’s growing housing shortage by delivering high-quality, energy efficient homes with fewer defects, in half the time of traditional methods. Building high quality homes in factories will enable the upscaling of delivery of affordable housing, as the UK looks to kick-start the construction industry’s recovery in the wake of the Covid-19 pandemic. Subject to Planning Consent, this project will test the suitability of factory-built affordable housing for Cotswold District.

- 2.3.7 With funding support from Cotswold District Council, Air Source Heat Pumps will replace traditional gas boilers, reducing CO2 emissions from heating and hot water by around 80%. The move away from fossil fuel heating and hot water also improves indoor and local air quality by avoiding the generation of combustion gases.
- 2.3.8 In addition, the introduction of a large solar PV system will reduce net operational regulated carbon emissions to zero across identified house types. Typically only 30% of the energy generated by the solar panels is used by the house and by introducing a battery storage system this will complement the whole house carbon saving as typically twice as much of the solar energy can be used by the occupant, further reducing their annual energy bills.
- 2.3.9 With the consent of tenants, homes will be monitored to assess performance and the financial and health benefits, to inform future projects.
- 2.3.10. Bromford intends to submit a planning application for the redevelopment of its homes in Stockwells in July with the aim of commencing work on site Autumn 2021.
- 2.3.11. It is proposed that the sum of £550,000 is transferred to Bromford Housing Association for the regeneration of 28 social rent homes at Stockwells, Moreton-in-Marsh. This grant would comprise commuted sums received and due to the Council as detailed in Annex A.

Proposals for Expenditure of Remaining Section 106 Commuted Sums received/due

- 2.4. Any remaining whole or part commuted sums not allocated within this report will be set aside for future sites.

3. FINANCIAL IMPLICATIONS

- 3.1. The Council is able to support development projects financially using its existing community-led housing grant and commuted sums generated from off-site contributions for affordable housing from previously delivered sites. The funds are available to help community groups and Registered Providers deliver affordable housing across the district. This report seeks to commit funding from commuted sums only.
- 3.2. There is a time limitation on the use of some S106 commuted sums. Failure to spend within the time limit requires the return of the funding to the developer. Allocating commuted sums to the above scheme will ensure that the funding is spent within the time parameters.
- 3.3. Further commuted sums have been negotiated in S106 agreements (see Annex A) but are yet to reach trigger points for payment by the Developer. Should payment be received, the commuted sums will be available for development of future affordable housing schemes to meet the Council's priorities. The Council's existing community-led housing grant is also available for community-led developments.

- 4.1. Grant funding for the delivery of affordable housing will be subject to a legal agreement with appropriate terms for recycling of funding for affordable housing provision and agreed environmental and sustainability standards.

5. RISK ASSESSMENT

- 5.1. There is a time limitation on the use of some S106 commuted sums. Failure to spend within the time limit requires the return of the funding to the developer. Alternative affordable housing schemes will need to be sourced to utilise grant funding. Timescale for use of each commuted sum is set out in Annex A.
- 5.2. There is a risk that high level costs set out in this report are subject to change due to factors such as market forces or unforeseen costs. Officers will monitor the projects and report on material changes.
- 5.3. The scheme may not proceed if planning permission is not granted, full funding requirements cannot be met or other factors constrain development. Any grant allocation from the Council will be subject to a legal agreement containing appropriate terms and conditions for repayment of grant should the scheme not proceed.

6. EQUALITIES IMPACT

- 6.1. An Equalities Impact Assessment has been carried out. This highlights that the delivery of housing is aimed at meeting the identified needs of local people, based principally on the Local Housing Needs Assessment. Housing provision will be tailored to meet these specific needs and have regard to demographics such as age, income and disability. This report seeks to allocate funding to address the shortfall in affordable housing provision for those in housing need.

7. CLIMATE CHANGE IMPLICATIONS

- 7.1. The scheme at Stockwells has regard to and seeks to deliver directly against the Climate Emergency Strategy, seeking to reduce carbon from the development of Social and Affordable homes. This will support tenants on lower incomes, helping to reduce the risk of fuel poverty and enabling low-income tenants to live comfortably in their homes
- 7.2. Inclusion of carbon reducing technology and construction of new build homes using better energy efficiency standards is more cost efficient than retrospectively fitting carbon reduction measures.

8. ALTERNATIVE OPTIONS

8.1. Stockwells, Moreton-in-Marsh

- 8.1.1. The Council could choose not to invest in the development. Subject to Planning Consent, Bromford could seek to deliver the scheme **Page 34** the same or varied tenure mix as required by Local Plan Policies, which simply meet Building Regulations standards.

9. BACKGROUND PAPERS

9.1. None.

(END)

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Section 106s: Commuted sums for affordable housing (received) - Jun

| Site Location | Planning App. No. | Date of S106 Agree or Unilateral Undertaking | Total commuted sum due | Trigger for S106 payment |
|---|-----------------------------------|--|------------------------|--|
| Hoopers Court (formerly Newcombe's Yard) Cirencester | | UU - 14/12/2004 | £36,900 | Failure to secure purchaser of low cost home i.e.70% of OMV. Therefore owner able to sell at OMV with 30% payable to S106 aff. housing fund. |
| Pullhams, Bourton on the Water | 14/03208/FUL | UU - 19/08/2015 | £200,000 | Prior to the first Occupation of any Dwelling |
| Saxon Way, Fairford | 13/05181/OUT | UU - 10/07/2015 | £100,000 | On or prior to occupation of 80% of the Private Housing Units |
| Chequers, Northleach | 14/03381/REM UPRN:100120430724 | DoV 13/05/16 | £84,957 | Within 28 days after the Commencement of Development |
| Preston Mill, Preston | 14/04516/OUT | S106 - 01/07/2015 | £150,000 | Within 28 days after the Commencement of Development |
| The Carted Barn, South Cerney | 14/02161/FUL UPRN:100121239510 | UU - 24/11/2014 | £20,755 | 10 working days prior to commencement of development |
| Moorgate, Lechlade SC6025 | 13/02642/OUT | S106 - 17/09/2013 | £19,565 | On sale of the first Open Market Unit |
| Ashton House, Stow on the Wold | 14/02444/FUL | S106 - 10/08/2015 | £5,683 | On or prior to occupation of 80% of the dwellings |

| | | | | |
|---|-----------------------------------|-------------------|-------------|--|
| TH White (McCarthy & Stone), Cirencester | 14/05222/FUL | S106 - 18/09/2015 | £192,400 | Prior to the first occupation of any dwelling. |
| Windrush Heights, A40, Windrush | 17/02435/OUT | UU- 25/07/2017 | £62,000.00 | Prior to commencement of Development |
| Windrush Heights, A40, Windrush | 14/05122/FUL | UU - 01/06/2015 | £12,044.60 | Commencement of Development |
| SUBTOTAL | | | | |
| Plots 180 and 209 at Fairford Gate | 12/02133/FUL | | £175,500.00 | Failure to secure purchaser of low cost home at 70% OMV. Developer able to sell at OMV with 30% payable to S106 fund |
| Granbrook Garage | 14/03884/FUL | UU - 18/11/2015 | £25,000.00 | Prior to the Occupation of the fourth Dwelling. |
| The Carted Barn, South Cerney | 14/02161/FUL UPRN:100121239510 | UU - 24/11/2014 | £20,755 | 10 working days prior to commencement of development |
| SUBTOTAL | | | | |

Section 106s: Commuted sums for affordable housing (Due) - Jun 2021

| Site Location | Planning App. No. | Date of S106 Agree or Unilateral Undertaking | Total commuted sum due | Trigger for S106 payment |
|--|-------------------|--|------------------------|--|
| Windrush Heights, A40, Windrush | 15/03385/FUL | | £62,000.00 | Prior to commencement of Development |
| Former Bowls Club, Moreton-in-Marsh | 12/02678/FUL | S106 -26/03/2015 | £258,312.00 | Failure to secure purchaser of low cost home at 70% OMV. Developer able to sell at OMV with 30% payable to S106 fund |

| | | | | |
|-----------------|--|--|--------------------|--|
| SUBTOTAL | | | £320,312.00 | |
|-----------------|--|--|--------------------|--|

Section 106s: Commuted sums for affordable housing (Negotiated) - Ju

| Site Location | Planning App. No. | Date of S106 Agree or Unilateral Undertaking | Total commuted sum due | Trigger for S106 payment |
|--|--------------------------|---|-------------------------------|---------------------------------------|
| Ullenwood, Coberley | 14/05225/OUT | S106 - 26/01/2016 | £744,975.00 | Prior to occupation of first dwelling |
| Old Quarries, Rectory Lane, Avening | 19/01692/FUL | | £67,331.00 | |
| SUBTOTAL | | | £812,306.00 | |

2021

| Date Funds received | Date Funds must be spent | No. of affordable housing units/ anticipated completion date | Balance as at 31 June 2021 (includes interest on the original sum to Mar 2020). | Status |
|---------------------|---|--|---|-----------|
| 15/05/12 | UU - no date specified | 15 Units at Davies Rd, Moreton-in-Marsh | £38,040.31 | Committed |
| 29/03/17 | UU - No timescale included | 15 Units at Davies Rd, Moreton-in-Marsh | £201,504 | Committed |
| 21/07/17 | UU - No timescale included | 15 Units at Davies Rd, Moreton-in-Marsh | £105,645 | Committed |
| 26/07/17 | 5 years to commit (25/07/2022) and 7 years to spend from date of payment (25/07/2024) | 15 Units at Davies Rd, Moreton-in-Marsh | £85,524.63 | Committed |
| Jan-21 | 5 years to commit and 7 years to spend from date of payment | 15 Units at Davies Rd, Moreton-in-Marsh | £150,000.00 | Committed |
| Jan-21 | UU. No pay back period included | 14 units at Sungound, Avening | £22,595 | Committed |
| 30/06/16 | 29/06/23 | 14 units at Sungound, Avening | £19,747.01 | Committed |
| 09/04/21 | 5 years to commit and 7 years to spend from date of payment | 14 units at Sungound, Avening | £7,414 | Committed |

| | | | | |
|----------|---------------------------------|---|-----------------|--------------------|
| 03/05/17 | 02/05/27 | 14 units at Sungound, Avening | £201,048 | Committed |
| Mar-21 | | 14 units at Sungound, Avening | £66,208 | Committed |
| Mar-21 | | 14 units at Sungound, Avening | £13,643 | Committed |
| | | | £911,368 | Committed |
| 30/06/17 | | | £176,709.29 | Not committed yet |
| 25/05/21 | UU - No timescale included | | £25,000 | Not committed yet |
| Jan-21 | UU. No pay back period included | 15 Units at Davies Rd, Moreton-in-Marsh | £22,595 | Not committed yet |
| | | | £224,304 | Uncommitted |

| Date Funds received | Date Funds must be spent | No. of affordable housing units/ anticipated completion date | Balance as at 31 June 2021 (includes interest on the original sum to Mar 2020). | Status |
|---------------------|--------------------------|--|---|---------|
| | | | | Overdue |
| | | | | Overdue |

| | | | | |
|--|--|--|----------|-----|
| | | | £320,312 | Due |
|--|--|--|----------|-----|

June 2021

| Date Funds received | Date Funds must be spent | No. of affordable housing units/ anticipated completion date | Balance as at 31 June 2021 (includes interest on the original sum to Mar 2020). | Status |
|---------------------|--------------------------|--|---|-------------|
| | 5 years from receipt | | | Not due yet |
| | | | | Not due yet |
| | | | £812,306 | Not due yet |

Comments

...towards the provision of affordable housing in a location with the District Council's administrative area.

.....towards the provision of off-site Affordable Housing within the parish of Bourton-on-the-Water or adjoining parishes and the District of the Council

.....for the provision of affordable housing in the Parish or Surrounding Area or otherwise in the administrative area of the District Council.

.....used towards the provision of Affordable Housing within Northleach or failing that the Surrounding Area or failing that the district of the District Council and for no other purpose

...towards the provision of Affordable Housing in support of providing for local housing needs in Cirencester, the Surrounding Area and the district of the Council and for no other purpose.

UU. No pay back period included

...spent on projects/initiatives which facilitate the increased provision of affordable housing in the Cotswold District

...to assist the Council in providing off site affordable housing in support of local needs within Lechlade or the Surrounding Area or the Cotswold District

...shall be used for the provision of Affordable Housing in the Parish or Surrounding Area or otherwise in the District of Cotswold in lieu of the on-site provision of Affordable Housing.

... to be applied towards the provision of affordable housing within Cirencester, the surrounding area and the district of the Council.

To be spent on projects/initiatives which facilitate the increased provision of affordable housing in the Cotswold District, parish or Surrounding Area (Barrington, Sherbourne, Aldsworth)

Cascades to District

S106 Plots 180 and 209 at Fairford Gate (12/02133/FUL) [Bloor Homes] Afford. Hsg

..... towards the provision of off-site Affordable Housing within the parish of Chipping Campden or adjoining parishes and the administrative district of the Council.

UU. No pay back period included

...spent on projects/initiatives which facilitate the increased provision of affordable housing in the Cotswold District

Comments

To be spent on projects/initiatives which facilitate the increased provision of affordable housing in the Cotswold District, parish or Surrounding Area (Barrington, Sherbourne, Aldsworth)



Comments

... towards the provision of Affordable Housing in the District



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Agenda Item 8

| | |
|---|--|
|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL – 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 08</p> |
| <p>Subject</p> | <p>RECOMMENDATIONS FROM OVERVIEW AND SCRUTINY COMMITTEE AND CABINET – TETBURY AND FAIRFORD LEISURE PROVISION TASK AND FINISH GROUP</p> |
| <p>Wards affected</p> | <p>All</p> |
| <p>Accountable member</p> | <p>Councillor Joe Harris, Leader of the Council Email: joe.harris@cotswold.gov.uk</p> |
| <p>Accountable officer</p> | <p>Robert Weaver, Chief Executive Tel: 01285 623607 Email: robert.weaver@cotswold.gov.uk</p> |
| <p>Summary/Purpose</p> | <p>The Overview and Scrutiny Committee set up a Task and Finish Group for Groups to review the approach taken to leisure provision in Tetbury and Fairford and establish any lessons learnt. Cabinet considered these key lessons learnt on 7 June 2021 and subsequently recommend them to Council to support future commissioning and procurement activity.</p> |
| <p>Annexes</p> | <p>None</p> |
| <p>Recommendations</p> | <p>That Council agree recommendations one to six and note the commentary at section five regarding future leisure provision.</p> |
| <p>Corporate priorities</p> | <ul style="list-style-type: none"> • Ensure that all services delivered by the Council are delivered to the highest standard • Help residents, businesses and communities to access the support they need to ensure a high level of health and well-being |
| <p>Key Decision</p> | <p>No</p> |
| <p>Exempt</p> | <p>No</p> |

I. BACKGROUND

- I.1.** An Overview and Scrutiny Committee Task and Finish Group (hereafter referred to as the Group) was set up out of concern of Councillors and residents of Tetbury and Fairford, following the decisions taken by the companies running the leisure facilities at the schools to close them in 2019.
- I.2.** The terms of reference set out two main questions that the Group should have regard to:
 - A.** What lessons might be learnt from the approach taken to leisure provision in Fairford and Tetbury since 2013; and
 - B.** The future provision of facilities to meet current and future needs of residents.
- I.3.** Given that, subsequent to the Group's established terms of reference, Cabinet commissioned a leisure strategy, which includes the scope of the future provision of facilities to meet current and future needs of residents, the Group did not undertake any work on the second line of inquiry.
- I.4.** A copy of the full report, agenda item 9 of the Overview and Scrutiny Committee held on 25 May 2021, can be viewed on the Council's website at the following link:

[Tetbury and Fairford Leisure Provision Task and Finish Group](#)

2. RECOMMENDATIONS FOR LESSONS LEARNT

- 2.1.** The recommendations are set out below. These are the key lessons Overview and Scrutiny Committee asked Cabinet to note and they align to one of this Council's principles – rebuilding trust and confidence in the council by promoting a culture of openness and transparency:
 - 1.** Clear service requirements and desired outcomes need to guide all procurement and service delivery decisions, so that there is a robust process to evaluate quality, viability, social value and community impact, in addition to financial cost.
 - 2.** Strategic needs analysis should be used to bring objectivity to good commissioning decision making, so that the desired outcomes are delivered sustainably.
 - 3.** The robustness of cost : quality assessments brought to formal procurement evaluations should apply equally to other commissioning routes, so that risks, quality, viability and efficiencies are all considered as part of the due diligence process.
 - 4.** Reports to Members should explicitly frame alternative options and the associated risks, costs and benefits so that a clearer understanding between cost and social value informs their decisions.
 - 5.** Any significant proposed changes to service provision (or policy decisions) should be subject to an impact assessment, so that any potentially positive or negative impacts are understood, as well as presenting an opportunity to better involve stakeholders in our decision making process.

6. Formal monitoring of relevant grant agreements should be undertaken in conjunction with finance, so that any concerns over financial viability of a service can be identified at the earliest opportunity.

3. WHAT IS ALREADY IN PLACE TO SUPPORT THE RECOMMENDATIONS?

- 3.1. There are a range of mechanisms in place to support and assure the recommendations arising from the Task and Finish Group's work and these include:
 - A. The high level commissioning statement approved by Cabinet January 2020 which sets out the role of Chief Executive as the Council's lead commissioner and the role Publica will take in relation to any new commissioning activity.
 - B. A Publica commissioning and procurement board, which includes the Council's Deputy Chief Executive, to oversee all commissioning and procurement activity.
 - C. A commissioning and procurement user guide, supplemented by commissioning and procurement training.
 - D. Social value is included in all tender documents.
 - E. A contract monitoring team in place for high value contracts.
 - F. Report writing training to support officers in framing alternative options and the associated risks, costs and benefits.
 - G. A refreshed equality and diversity policy approved by Cabinet in April 2021 covering the need for impact assessments to be completed for any new policy decisions or significant proposed changes to service provision.
 - H. An equalities implications section added to Council and committee reports template.

4. OTHER PLANNED ACTIVITY TO SUPPORT THE RECOMMENDATIONS

- 4.1. Planned activity to respond to the lessons learnt includes:
 - A. A revised procurement strategy that will include a section on social value.
 - B. A transparency and quality of decision-making project, which will build on the report writing training.

5. FUTURE LEISURE PROVISION TO MEET CURRENT AND FUTURE NEEDS

- 5.1. Paragraph 5.7 of the Overview and Scrutiny Committee report references the leisure strategy, which Cabinet approved on [1 March 2021 – agenda item 8](#).
- 5.2. This strategy identified a need for informal community spaces and centres in order to provide a range of opportunities for physical activity and sport - particularly in the rural areas of the district. It suggests retaining existing facilities and where new housing developments takes place we should consider the provision of additional community facilities, or refurbishment of existing, in order to encourage greater participation in physical activity using enhanced partnerships. The focus groups held in Fairford and Tetbury to develop the strategy echoed this view.
- 5.3. One product of the strategy is recommendations for key service and facility interventions. Cabinet is developing action plans for these recommended interventions and will consider these action plans in the autumn. The interventions will be used to try and secure investment and will likely include a focus on existing community assets, active environments – the places and spaces around us which can have a positive or negative impact on whether, how, when, and where we stay active - and consider peoples' changed behaviours to physical activity as a result of the Covid-19 pandemic.

- 5.4. As an example of bringing about further behaviour change, ‘We Can Move’ is a social movement to get everybody in Gloucestershire active. It is a whole system approach that this Council is part of, coordinated by Active Gloucestershire and considers peoples’ daily lives to find ways to be physically active.
- 5.5. Similarly, in February this year we launched Crowdfund Cotswold to help fund important local projects, originating from community groups, many of which bring about ways for people to be more active. To date, this Council has pledged £72,000 to boost 13 projects towards their crowdfunding targets, from a total of £110,000 committed to this initiative in partnership with Spacehive – the UK’s leading civic crowdfunding platform. These pledges include Tetbury bowls club, Cotswold Lakes Trust Perch Pod and Avening zip wire.
- 5.6. In line with other districts across the county, Cotswold District Council has received £100,000 grant funding from Gloucestershire Clinical Commissioning Group to work with the local Integrated Locality Partnership, and others, to build on our community focussed work to reduce health inequalities. Our community wellbeing team will lead this work and collaboration with voluntary and community sector organisations and our communities will feature heavily. The scheme will work in partnership with ‘We Can Move’ and we will involve residents and relevant community groups in its development and implementation.
- Through this work, we will develop a dedicated physical activity pathway for Cotswold residents to make it as easy as possible to become more active, especially for those who need it most and including patients with a long-term condition (LTC). The aim is to increase the number community-based physical activity opportunities across the district, including specialist exercise classes for LTC patients and community-led activities by using existing assets (facilities, green open spaces etc.). The project is likely to start in the autumn and will last for up to 3 years initially.
- 5.7. Over the past 18 months, dedicated community-led health and wellbeing initiatives have emerged in Tetbury and Fairford/Lechlade/Kempford areas. ‘Working for Wellbeing’ in Fairford and Lechlade is aiming to improve local peoples’ health and wellbeing by working in partnership, engaging with the local community, providing community activities and signposting to relevant services.
- Tetbury Health and Wellbeing Committee and Working Group, led by Tetbury Town Council, is also taking a holistic view on improving peoples’ health and wellbeing through community engagement, community-led initiatives and signposting. Both groups have recently employed a health and wellbeing coordinator to drive local initiatives. The Council has been working in close partnership with both groups and will continue to do so in future to support and enable local initiatives and to collaborate on specific projects.

6. FINANCIAL COMMENTARY

- 6.1. There are no financial implications arising directly from this report.

7. LEGAL IMPLICATIONS

- 7.1. There are no legal implications arising directly from this report.

8. RISK ASSESSMENT

- 8.1. No significant risks identified specific to this report.

9. EQUALITIES IMPACT

- 9.1. Not required for this report, but it does contain a recommendation that reinforces the need for any significant proposed changes to service provision (or policy decisions) to be subject to an impact assessment.

10. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

- 10.1. There are no climate change or ecological emergency implications arising immediately from this report.

11. ALTERNATIVE OPTIONS

- 11.1. Council can choose not to accept one or more of the recommendations.

12. BACKGROUND PAPERS

- 12.1. None identified.

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Agenda Item 9

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|---|--|
|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL – 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 9</p> |
| <p>Subject</p> | <p>FUNDING FOR IMPROVEMENT WORKS TO RISSINGTON ROAD CAR PARK, BOURTON ON THE WATER</p> |
| <p>Wards affected</p> | <p>Bourton Village</p> |
| <p>Accountable member</p> | <p>Cllr Mike Evemy – Deputy Leader and Cabinet Member for Finance Email: mike.evemy@cotswold.gov.uk</p> |
| <p>Accountable officer</p> | <p>Mrs Maria Wheatley, Parking Manager</p> |
| <p>Summary/Purpose</p> | <p>To seek agreement to allocate capital and car parking earmarked reserve funds for improvements to Rissington Road Car Park, Bourton-on-the-Water</p> |
| <p>Annexes</p> | <p>Annex A - Technical Design of the Improvements to Rissington Road Car Park</p> |
| <p>Recommendation/s</p> | <p><i>a) That Council agrees the allocation of £245,000 of capital funding and £92,000 of car park earmarked reserve fund to make improvements to Rissington Road Car Park, Bourton-on-the-Water</i></p> |
| <p>Corporate priorities</p> | <p>Ensure that all services delivered by the Council are delivered to the highest standard.</p> |
| <p>Key Decision</p> | <p>NO</p> |
| <p>Exempt</p> | <p>NO</p> |
| <p>Consultees/ Consultation</p> | <p>Cabinet Member, Senior Officers and Ward Member</p> |

1. BACKGROUND

- 1.1. The Rissington Road car park at Bourton-on-the-Water requires significant improvement to improve the customer experience and to ensure compliance with industry standards. This car park is essential to the tourist trade and also accommodates several recycling bring banks for residents use.
- 1.2. Since 2014/15 the following parking projects have been funded from the Council's Capital Programme in order to make improvements to car parks:
- Refurbishment and improvements to the Forum car park, Cirencester;
 - New pay and display machines installed District wide;
 - Refurbishment and improvements to the Beeches car park, Cirencester;
 - Resurface and improvements to the West Street and Church Street car parks in Tetbury;
 - Adaptations to pay and display machines to allow contactless payments;
 - Refurbishment and improvements to the Sheep Street car park, Cirencester including demolition of the Old Memorial Hospital building;
 - Creation of the Whiteway car park, Cirencester, (at the Rugby Club).
- 1.3. The Property Services Team regularly monitors the condition of the Council's car parks. The Rissington Road Car Park is now in need of significant improvements.

2. MAIN POINTS

- 2.1. This car park is essential to the tourist trade in Bourton-on-the-Water and therefore work needs to take place when demand for the car park is at its lowest. The aim is to minimise any disruption to car park users by beginning the work after the October half term 2021. For the safety of car park users, it will be necessary for the whole car park to be closed. As part of the procurement process for appointing a contractor, however partial reopening as the work progresses will be reviewed as the works are progressed. The car park currently has insufficient and ineffective drainage, which prevents the dispersal of storm & surface water collection. This allows pooling of water and damages the car park surface.
- 2.2. The entire car park requires: a new drainage system, resurfacing and layout redesign. This will reduce ongoing maintenance works and provide a long term improved facility for users. A Project specification has been prepared by external consultants and agreed by Property and Parking services officers. The work to be carried out will include the following:
- A new improved drainage system;
 - Full resurfacing works to entire car park with a porous material;
 - Increase the number of disabled bays from 2 to 6.

- Full re-lining with re-design of layout to include items such as pedestrian walkways, disabled parking, directional markings and improved and industry compliant vehicle and aisle spacing;
- Future proof the site by providing electric vehicle charging points;
- Improved height and access barriers;
- Replacement and additional signage;
- Increased and improved lighting scheme;
- Improved landscaping and boundary works.

2.3. The above work will provide an enhanced environment, provide a car park which is fit for the future and will enable financial savings through lower reactive and planned maintenance costs.

3. FINANCIAL IMPLICATIONS

3.1. This project is estimated to cost £337,000 which can be met from the Capital Programme (£245,000) and the Parking earmarked reserve (£92,000).

3.2. Between November 2003 and March 2013 Cotswold District Council enforced the on-street parking across the district, on behalf of Gloucestershire County Council under an agency agreement. Under the agreement any surplus at the end of the contract term was shared equally between the two Councils. This on-street surplus is ring fenced under section 55 of RTRA 1984 and may only be used for specific purposes. This fund has a balance of £92,000.

3.3. Unplanned maintenance has been carried out in this car park over the last 4 years at a cost of over £10,000 for the period.

4. LEGAL IMPLICATIONS

4.1. The Legal Team have confirmed the conditions are correct for spending the fund in line with section 55 of the RTRA, as this car park is key to support the traffic management in the village.

5. RISK ASSESSMENT

5.1. There are financial risks related to not making the improvements as the structure of the car park will continue to degrade, requiring ongoing surface repairs. Improving the car park will reduce Health & safety risks to car park users. Improvements to lighting provisions are required in order to comply with industry recommendations and to improve Health & Safety for car park users. The proposed layout will reduce risks to pedestrians due to improved visual markings and directional systems.

6. EQUALITIES IMPACT

- 6.1. The proposed improvements will be an advantage for all users particularly those with mobility problems as the surface will be more even and easier to traverse particularly with small wheeled items such as pushchairs, wheelchairs or walking frames. The proposal includes an increase in the number of large bays for blue badge holders from the existing 2 bays to 6 bays. There are no disadvantages for any specific groups.

7. CLIMATE CHANGE IMPLICATIONS

- 7.1. The proposal includes the provision of electric vehicle charging points in the Rissington Road car park.

8. ALTERNATIVE OPTIONS

- 8.1. Works to extensively patch and reline to match existing layout only, would reduce the overall cost. However existing drainage issues would remain and the medium to long term maintenance issues for the surface would reappear. This option would not include additional disabled bays, improved lighting or the installation of infrastructure for electric vehicle charging units.
- 8.2. Works could be reduced further by patch repairing the high priority areas only and reline only where necessary. As the option above no other improvements would be made and financial savings would be realised.

9. BACKGROUND PAPERS

- 9.1. Agenda item 12 of Cabinet on 13 May 2021 and associated minutes.

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|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL – 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 10</p> |
| <p>Subject</p> | <p>LICENSING ACT 2003 - REVIEW OF THE STATEMENT OF LICENSING POLICY</p> |
| <p>Wards affected</p> | <p>ALL</p> |
| <p>Accountable member</p> | <p>Cllr Juliet Layton Cabinet Member for Development Management and Licensing Email: juliet.layton@cotswold.gov.uk</p> |
| <p>Accountable officer</p> | <p>Michelle Bignell, Service Leader (Licensing and Business Support) Email: michelle.bignell@publicagroup.uk</p> |
| <p>Summary/Purpose</p> | <p>The report details the proposed revisions to the Council’s Statement of Licensing Policy (Licensing Act 2003), based on legislative requirements and statutory guidance.</p> |
| <p>Annexes</p> | <p>Annex A – Copy of draft Statement of Licensing Policy Annex B – Table of responses</p> |
| <p>Recommendation/s</p> | <p>a) That Council approves the reviewed Statement of Licensing Policy attached at Annex ‘A’.</p> |
| <p>Corporate priorities</p> | <p>Ensure that services delivered by the Council are delivered to the highest standard</p> |
| <p>Key Decision</p> | <p>No</p> |
| <p>Exempt</p> | <p>No</p> |
| <p>Consultees/ Consultation</p> | <p>12 week consultation has been carried out. Please see paragraphs 2.2 and 2.3 for further information</p> |

1. BACKGROUND

- 1.1. The Council is the Licensing Authority for the purposes of the Licensing Act 2003 (“the Act”).
- 1.2. The Act sets out the regulatory system that governs the provision of all alcohol, late night refreshment and entertainment premises in England and Wales. It requires the Council to prepare a Statement that it proposes to apply in exercising its functions under the Act.
- 1.3. The Statement is a Licensing Policy which sets out the general approach the Council will take when carrying out its regulatory role under the Act. This should be kept under review and must be re-published every five years.
- 1.4. The Act contains four licensing objectives which underpin the functions that the Council and other Responsible Authorities will perform. These Objectives are central to the regulatory regime created by the Act. They are:-
 - The prevention of crime and disorder
 - The protection of children from harm
 - Public Safety
 - The prevention of Public Nuisance
- 1.5. Cotswold District Council’s current Statement of Licensing Policy was published in January 2016 and expired on 7th January 2021.
- 1.6. It was determined by the Planning and Licensing Committee and the decision adopted by Full Council in 2020 that the current policy would be extended due to the Covid-19 pandemic. It was asked that a revised draft document be brought to the Planning and Licensing Committee as soon as possible in 2021.

2. MAIN POINTS

Consultation

- 2.1. It was agreed by the Planning and Licensing Committee on 10th February 2021 to carry out a consultation on the draft Policy. A copy of the draft Policy document showing tracked changes is attached at **Annex A**.
- 2.2. The document has been subject to a 12-week public consultation period which ended on 9th May 2021.

- 2.3.** The Act provides that the Licensing Authority must consult with:-
- The Chief Officer of Police for the area;
 - The Fire and Rescue Authority for the area;
 - Persons/bodies representative of local holders of premises licences;
 - Persons/bodies representative of local holders of club premises certificates;
 - Persons/bodies representative of local holders of personal licences; and
 - Persons/bodies representative of businesses and residents in its area.
- 2.4.** A copy of responses received during the consultation are attached at **Annex B**. This includes comments on how the document has been amended or a reason why they have not been taken into account.
- 2.5.** The Planning and Licensing Committee met on 9th June 2021 and discussed the responses.
- 2.6.** Members resolved to present the draft Statement of Principles to Council for approval.
- 2.7.** The Policy will be formatted to comply with corporate guidelines.

3. FINANCIAL IMPLICATIONS

- 3.1.** None

4. LEGAL IMPLICATIONS

- 4.1.** If the Licensing Authority does not carry out a review it will fail to meet its statutory obligations.

5. CLIMATE CHANGE IMPLICATIONS

- 5.1.** There are no implications arising directly from this report.

6. ALTERNATIVE OPTIONS

- 6.1.** No alternative options are proposed.

7. BACKGROUND PAPERS

- 7.1.** Home Office S.182 Statutory Guidance for Licensing Authorities (April 2018)

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THE LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

2021/25

14 JULY 2021 PREAMBLE

By virtue of the Licensing Act 2003 (the Act) Cotswold District Council (the Council) as the Licensing Authority has responsibility for the licensing of all premises in the Cotswold District (the District) that sell alcohol, provide regulated entertainment or serve hot food or drink to the public between 23.00 and 05.00. In addition the Council must issue Personal Licences to persons responsible for the retail sale of alcohol and accept Temporary Event Notifications from persons requiring occasional permissions for activities licensable under the Act.

To comply with the legislation, Licensing Authorities must publish a Licensing Policy that sets out the position in relation to its duties under the Act to guide its work in implementing the Act. The Council welcomes the powers granted to it by the legislation and will continue to use them, in consultation with 'Responsible Authorities' (e.g. Police, Fire Service, Planning, Environmental Health etc), licensees, local businesses and residents, in a socially responsible way.

This document is the fifth Licensing Policy Statement to be consulted upon by the Council. The Council will consult widely on this issue as it affects a very large number of people in the District (e.g. licensees, residents and businesses) as well as statutory agencies and the like.

This Licensing Policy has been drawn together based on the last edition with some updates where appropriate and reflects the local balance between the commercial interests of the licensed trade and the communities they serve and impact upon. The Act requires the Council to

revise and re-publish the policy every five years. This Policy will be adopted at a meeting of the Council on 14 July 2020..

NB Due to the coronavirus pandemic, the 2020 review was delayed until 2021. The next review will be carried out in 2025 and will come into force on 7 January 2026 or earlier if necessary.

Comments and queries should be directed to:

**Licensing Team
Cotswold District Council
Trinity Road
Cirencester
GL7 1PX**

Email: ers@cotswold.gov.uk

Further copies may be obtained from the above address or from the Council's website www.cotswold.gov.uk

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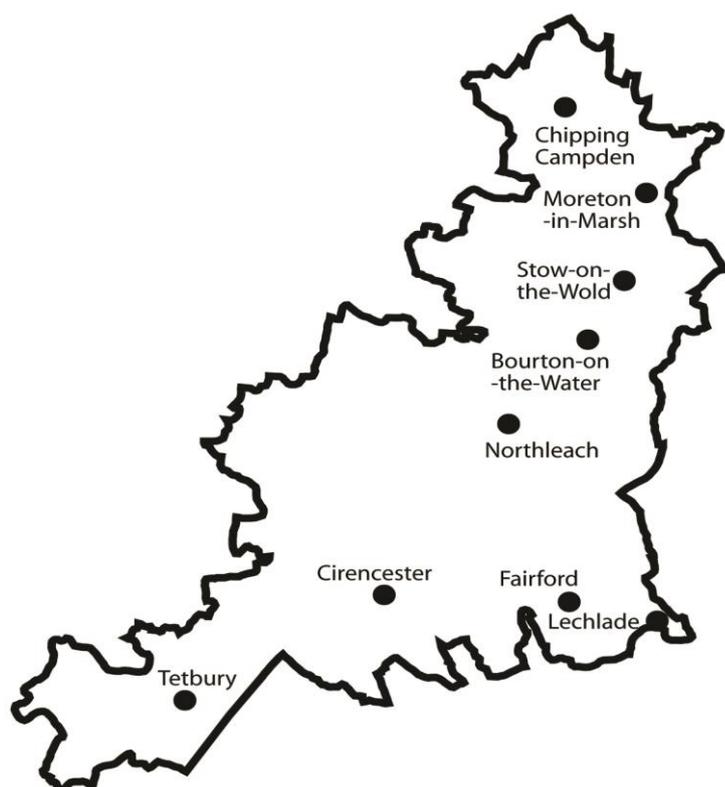
APPENDIX A – Table of Delegated Functions

APPENDIX B – Glossary

APPENDIX C – Responsible Authority Contact Details

1. INTRODUCTION

- 1.1 The Council is one of six district councils within Gloucestershire. The Cotswold District is mainly a rural area based around 9 market towns Cirencester, Bourton-on-the-Water, Chipping Campden, Fairford, Lechlade, Moreton-in-Marsh, Northleach, Stow-on-the-Wold and Tetbury and has a population of 90,000. A map of the area [450 sq miles] is shown below:



2.0 THE LICENSING ACT 2003

2.1 The Council is responsible under the 'Act' for the licensing of 'licensable activities' within its area. The licensable activities that are required to be licensed under the Act are:

- the retail sale of alcohol (including via the internet or mail order);
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of regulated entertainment
- The provision of Late Night Refreshment

2.2 The Act imposes a duty on the Council to produce, develop and review a Statement of Licensing Policy that sets out the policies which the Council will generally apply to promote the licensing objectives when making decisions under the Act. The Council, as the licensing authority, will actively seek to promote the four statutory licensing objectives that are set out in section 4 of the Act, which are as follows:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Each objective is of equal importance and the Council's policy relating to each of them is given in this Statement of Licensing Policy. Where the Council receives relevant representations regarding an application from a "Responsible Authority" or an "other person", thereby invoking the Council's discretion to consider the matter, the Council may

consider attaching conditions to licences to promote the licensing objectives as appropriate. 'Other Persons' may include any of the following:-

- Residents living near the premises
- Persons with an interest in the premises or locality
- Local Councillors
- Businesses with an interest in the premises or locality
- Organisations with an interest in the locality, premises or licensable activities

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the . Act . and with regard to the Guidance issued by the Home Office under Section 182 of the Act. The Policy will take effect after it is adopted by Council on 14 July 2021 and will remain in force for a period of not more than five years. A review and further consultation will be carried out no later than Autumn 2025. If any amendments to the Statement of Licensing Policy are needed before the review period they will only be made following consultation with those parties referred to in paragraph 2.6 below.

2.4 There are a number of groups who have an interest in the licensing of premises under the Act, including the licensed trade, customers, residents, local councillors and enforcing agencies. All these parties have views and concerns that require consideration as part of the licensing function. Before publishing the Statement of Licensing Policy and any amendments to it, the Council as licensing authority will consult with Gloucestershire Police; Gloucestershire Fire and Rescue Service; the Council's Development Control and Public Protection Services, bodies representing local holders of personal licences, premises licences and club premises certificates; and local businesses and residents in the District. In addition, the Council may also consult with other local bodies and agencies as appropriate.

2.5 The Act introduces a unified system of regulation for the sale and supply of alcohol, and the provision of regulated entertainment and late night refreshment. Nothing in this Policy will prevent any person from exercising their rights under the Act as an applicant or objector. The Council's aim is to uphold the licensing objectives whilst facilitating well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

2.6 In drawing up and reviewing this policy the Council must consult with:-

The Chief Officer of Police for the area;
 The Fire and Rescue Authority for the area;
 Persons/bodies representative of local holders of premises licences;
 Persons/bodies representative of local holders of club premises certificates;
 Persons/bodies representative of local holders of personal licences; and
 Persons/bodies representative of businesses and residents in its area.

In addition the .Council will seek to identify and consult with other organisations and individuals who may be affected by this policy in an attempt to ensure that a balanced policy is achieved.

The Policy Statement and future drafts for consultation will be placed on the Council 's website which can be found at www.cotswold.gov.uk. All parties will be emailed where possible and the consultation will also be advertised widely on social media.

2.7 The Council's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. To this end, conditions attached to the various permissions granted under the Act will be focussed on matters within the control of the individual licensees and others granted relevant permissions.

- 2.8 Licensing law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be a part of a holistic approach to the management of the evening and night-time economy in town and city centres. Therefore, as a matter of policy the Council expects every holder of their licence, certificate or permission to be responsible for minimising the impact of their activities and anti social behaviour by their patrons within the vicinity of their premises.
- 2.9 Licensed premises, especially those offering late night entertainment, alcohol and refreshments, can sometimes be a source of crime and disorder, nuisance and public safety concerns. The Council will expect Operating Schedules to satisfactorily address these issues from the design of the premises through to the way that they are to be operated on a day to day basis. The Council understands and expects that the primary responsibility for controlling activities on and in the immediate vicinity of their premises shall rest with all holders of a licence, certificate or permission.
- 2.10 When applications are considered by the Council following receipt of relevant representations, they will be considered on individual merits with regard to this Statement of Licensing Policy. It will seek to balance the needs of the wider community, local community and commercial premises and activities, against the needs of those who may be concerned about the adverse impacts for licensed premises. The views of vocal individuals or groups will not necessarily prevail over the general interests of the community.
- 2.11 The Council recognises the need to encourage and promote cultural events which may include live music, dancing and theatre, for the wider cultural benefit of communities. Where such events include regulated entertainment, particularly live music, the Council will seek to balance any concerns over disturbance with the wider cultural benefits.
- 2.12 The Council will work in partnership with other local authorities in Gloucestershire to ensure a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities.
- 2.13 Where it is necessary to depart from the Home Office Guidance, either in this Policy or at any other time, the Council will give clear and sound reasons for doing so.

3. THE LICENSING PROCESS

- 3.1 One of the major principles in the Act is that the licensing functions contained within it should be delegated to an appropriate level to ensure speedy, efficient and cost effective service delivery.
- 3.2 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with those matters.
- 3.3 The Act creates a presumption that applications will be granted where no relevant representations or objections are made. Where decisions and functions are largely administrative and are not contentious, including those applications for which no relevant representations or objections are made, then and in the interests of efficiency and effectiveness these are delegated to Officers. Attached at Appendix A to this Statement of Licensing Policy is a Table of Delegated Functions setting out the agreed delegation of decisions and functions to the Council's Licensing Committee, Sub-Committees and Officers. These delegations will not prevent Officers from referring an application to a Sub Committee or the Licensing Committee, or a Sub Committee referring a matter to the full Licensing Committee if it is considered appropriate in the individual circumstances of the case.
- 3.4 The Act requires all applicants for new and varied premises licences and club premises certificates to state the steps that they propose to take to promote the licensing objectives in their Operating Schedule.
- 3.5 It is recommended that applicants make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime and disorder strategies and to take account of these, where appropriate, when formulating their Operating Schedule.

- 3.6 Operators of licensed premises will have to comply with planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed premises.
- 3.7 Where relevant representations have been received from responsible authorities or other person, the Council will consider whether it is necessary, having regard to the representations, to modify the conditions proposed in the operating schedule. In such cases, the Council will seek to impose the minimum burden which is necessary in order to promote the licensing objectives in the individual case.
- 3.8 Where relevant representations are received and upheld, the Council will seek to avoid confusion and duplication by not imposing licence conditions that are required under other legislation, except where they can be exceptionally justified to promote the licensing objectives.
- 3.9 This overlap will principally apply to fire safety, health and safety or planning matters.
- 3.10 In accordance with Guidance issued by the Home Office (para 10.4 in particular) applicants are advised to undertake a risk assessment before preparing their applications. This should be translated into the steps recorded in the Operating Schedule that it is proposed to take to promote the licensing objectives.
- 3.11 Where relevant representations are received applications will be considered on their individual merits and decisions made in relation to licensing applications will be made entirely separately from any decision in relation to planning. The Council also recognises the need to avoid, so far as possible, duplication with other regulatory areas.
- 3.12 Some regulations do not cover the unique circumstances of some entertainment. Where relevant representations are received, and upheld, the Council will consider attaching conditions to premises licence and club premises certificates where these are necessary to promote the licensing objectives and are not already provided for in any other legislation.
- 3.13 In circumstances where conditions are imposed, they will be tailored to the individual style and characteristics of the premises and events concerned. In addition, the Act prescribes mandatory conditions in certain circumstances.
- 3.14 Minor Variation applications are restricted to licence changes that will not impact adversely on the licensing objectives. The Council may consult with any Responsible Authority deemed appropriate to the application. Other persons may make representations but there is no right to a hearing. Licensing officers have delegated powers to determine applications made under the Minor Variations process and any decisions made will be based on whether or not the proposed variation will impact on any of the Licensing Objectives.
- 3.15 Applications can be made by community premises to remove the mandatory condition under the Act requiring a Designated Premises Supervisor in premises where alcohol is sold. Where an application of this nature is made, the Council must be satisfied that the premises is operating as a community premises and that the management committee has the capacity to provide sufficient supervision of the premises to minimise any risk to the four licensing objectives.

How this policy applies

- 3.17 All applications for new premises licences or variations need to be supported by an Operating Schedule. The Schedule must specify (among other things) the steps which the applicant proposes to promote each of the licensing objectives.
- 3.18 If no responsible authority or interested person lodges an objection (known as a “relevant representation”) to the application, the Council must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. The steps proposed by the applicant will become licence conditions. The Council will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.
- 3.19 Where, however, there are relevant representations, then a hearing before a Licensing Sub-Committee will normally follow. After the hearing, the Sub-Committee must, having regard to the representations, take such steps as it considers necessary to promote the licensing objectives. These may include refusing the application, or adding to or modifying the conditions proposed in the operating schedule.
- 3.20 In exercising its discretion, the Licensing Sub-Committee will have regard (amongst other things) to this Licensing Policy. Therefore, in drawing up their Operating Schedule, applicants would be well advised to read this Policy carefully. Where an Operating Schedule complies with this Policy, it is generally less likely that another person or responsible authority will object to it, or that any objection will succeed. Therefore, compliance with this Policy is likely to assist the applicant to avoid the delay and expense of a contested licensing hearing, and the risk of a refusal or the addition of unwanted licence conditions.
- 3.21 This is not to say that an application which complies with the Policy will necessarily be granted or that an application which does not comply with it will necessarily be refused. Where there have been relevant representations, the Council will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, necessary to promote the licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. For example, the Council will not interfere with an Operating Schedule which does not comply with this Policy where the steps proposed are sufficient to meet the licensing objectives in the individual circumstances of the case.
- 3.22 However, the Policy represents the Council’s view of the best means of securing the licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. While the contents of the Operating Schedule are a matter for the applicant, where there is objection to a Schedule which departs from the Policy, the Licensing Sub-Committee will normally expect to be given a good reason for the departure if it is to be asked to make an exception to the Policy.
- 3.23 In this Policy, there are a number of references to the Council’s requirements of applicants. As explained above, the Policy is only engaged where the Council has a discretion following the receipt of objections. In such cases, the Council will not apply the Policy rigidly, but will always have regard to the merits of the case with a view to promoting the licensing objectives.
- 3.24 Where considering an application for review of a licence, the Council is likely to view with concern premises which are being operated in clear breach of the terms of this Policy.
- 3.25 The contents of this section apply both to premises licences and club premises certificates.

Covid-19

The Coronavirus Regulations required many licensed premises to be closed for a period of time or to work in different ways such as offering a takeaway and/or shop service. Where appropriate the Council will apply some flexibility and creativity in the implementation of application processes to enable businesses to get back running safely and to help the local economy to recover.

During times when the Government is advising that premises must have social distancing measures in place, or there are other similar Government directions, it is expected that new applicants will have undertaken a risk assessment and include in their application the measures they will be implementing.

Where there is evidence that a licence holder is breaching Coronavirus Regulations, or any similar public health direction, in the first instance advice will be given. However, if breaches continue action may be taken under the relevant emergency legislation and/or the licence may be reviewed under the Licensing Act under the prevention of crime and disorder and public safety objectives

THE LICENSING POLICY OBJECTIVES

4. PREVENTION OF CRIME AND DISORDER

- 4.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes if not properly managed be a source of public nuisance generating crime and disorder problems. In its role as the licensing authority, the Council will recommend that licensees of premises develop Operating Schedules that satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 4.2 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it reasonably can to prevent crime and disorder in the District. The Council recommends applicants consider what actions they can take in the management of their premises that will contribute towards the reduction of crime and disorder and their responsibilities to the community in general when engaged in their activities and trading as licensed premises.
- 4.3 In developing such Operating Schedules applicants should take notice of this Policy, its contents and appendices and where appropriate are recommended to seek advice from the Council or Gloucestershire Police Licensing Unit. When planning and preparing Operating Schedules applicants may take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.
- 4.4 Where, following receipt of a relevant representation, the Council's discretion is engaged it will when making its determination take into account the measures proposed by the applicant to prevent crime and disorder. The Council may give particular consideration to the following:
- i. the ability of the person in charge of the premises to monitor the premises at all times that it is open;
 - ii. the training given to staff regarding crime prevention measures for the premises;
 - iii. physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
 - iv. management attitudes (e.g. responsible pricing promotions and willingness to stagger trading);
 - v. that when appropriate approved trained and registered door supervisors are employed to regulate entry and prevent disorderly behaviour (e.g. Night Clubs, Pubs and Clubs on Fridays and Saturdays, Christmas Eve, New Years Eve and evenings when it may be reasonable to expect higher than normal clientele numbers – transmission of high profile rugby football and football matches or sporting events etc.
 - vi. any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned (BOBS), restrictions on 'happy hours', music wind-down policies);
 - vii. the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
 - viii. arrangements for transport to get people home during the evening and at closing times.
 - ix. Where the premises are subject to age restrictions, the procedures in place to conduct age verification checks (identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises also accept cards bearing the Proof of Age Standards Scheme (PASS) hologram)
 - x. The location of the premises and the likelihood of any anti-social behaviour, violence, public order or policing problems if the licence is granted.

- xi. Shops, stores and supermarkets wishing to sell alcohol by retail sale will normally be permitted to match their permitted hours to their normal trading hours unless there are reasons relating to the prevention of crime and disorder for restricting those hours.

Further information can be found in the [Statutory Guidance](#).

The Council will give considerable weight to any representations made by Gloucestershire Police in determining any application for a licence and whether or not the use of any of these conditions is appropriate.

4.5 The Council will not apply standardised conditions but will in respect of each case where relevant representations have been received and upheld consider whether any of the conditions set out below are necessary and proportionate:

- i. Certain premises, particularly those licensed to sell alcohol beyond 11pm in the town centres, may be required to install a closed-circuit television system that meets with the approval of the Police.
- ii. Premises licensed to sell alcohol beyond 11pm in Cirencester may be required to become members of the Pubwatch scheme (or equivalent) , and to become a part of the Pubwatch radio system in order to alert other premises of potential trouble makers.
- iii. Applicants for late-night entertainment and liquor premises should agree a protocol with the police on the handling of illegal drugs found on their premises.
- iv. Any door supervisors employed on licensed premises must be licensed by the Security Industry Authority. It is recommended that pubs and clubs that wish to sell alcohol beyond 11pm employ registered door supervisors. It may be appropriate for some premises to employ door supervisors each night of the week whereas others may only require them at weekends.
- v. Licences for any form of public entertainment may be subject to conditions to prohibit entertainment (including film exhibitions) which are likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

4.6 Where there is evidence that a particular area of the District is already suffering adverse effects on the licensing objectives from the concentration of late night premises, when determining any further application for premises within the area identified when relevant representations have been received and upheld the Council will take into account:

- The character of the surrounding area;
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation.

4.7 The Licensing Committee's starting point is in terms of seeking a reduction in crime and disorder throughout the District, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998, and an improvement in local amenity through reduction of anti social behaviour.

4.8 Premises serving alcohol after 11pm should consider giving customers the opportunity to remain on the premises after last orders to encourage a 'wind down' period. The Licensing Authority will normally expect the service of alcohol to cease at least 30 minutes before customers are required to leave the premises. Applicants should consider a strategy of how they will implement a 'winding down' period and detail this in the application form. This could include slowing down the pace, volume and type of

music played, brighter lighting arrangements and serving hot food, coffee and other soft drinks.

5. PUBLIC SAFETY

- 5.1 The Act covers a wide range of premises that will present a mixture of risks to public safety, some of which may be common to different premises whilst others will be unique to specific operations.
- 5.2 Where the applicant can demonstrate compliance with statutory requirements (e.g. relating to fire prevention etc), and that suitable and sufficient risk assessments are in place which are relevant to the activities proposed and the Council's discretion has been engaged by the receipt of a relevant representation, the Council will not normally seek to duplicate such controls by the imposition of licensing conditions.

Capacity limits

- 5.3 The Council will not seek to set a capacity limit for premises for fire safety purposes only as this is controlled by the Fire Service under the Regulatory Reform (Fire Safety) Order 2005.
- 5.5 The Council is however, committed to ensuring public safety especially in relation to premises providing regulated entertainment and in some cases a capacity limit may be relevant to the Licensing Objectives.
- 5.5 The identification of a safe capacity limit for premises ensures that persons can be evacuated safely from premises in cases of emergency and may be one means of promoting the Act's public safety objective. The design and layout of premises are important factors when determining a safe occupant capacity. Other factors that may influence safe occupancy limits and may need to be considered when assessing the appropriate capacity for premises or events include;
- the nature of the premises or event;
 - the nature of the licensable activities being provided;
 - the provision or removal of such items as temporary structures, such as a stage, or furniture;
 - the number of staff available to supervise customers both ordinarily and in the event of an emergency;
 - the age spectrum of the customers;
 - the level and frequency of attendance by customers with disabilities, or who may be unable to speak or understand English;
 - availability of suitable and sufficient sanitary facilities;
 - nature and provision of facilities for ventilation.
- 5.6 The Council requires applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a fire safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Gloucestershire Fire and Rescue Service.
- 5.7 Where following receipt of a relevant representation the Council's discretion has been engaged, and it believes it is necessary to impose a condition identifying an occupancy limit on a premises licence, the Council will liaise with Gloucestershire Fire and Rescue Service. <http://www.glosfire.gov.uk>

6. PREVENTION OF PUBLIC NUISANCE

- 6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 6.2 The Council in its role as the licensing authority, is keen, where it is able, to protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises. As the Council is fully aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations, it will aim to work together with all other persons, statutory agencies and licensed businesses to ensure a mutual and productive co-existence.
- 6.3 Applicants should consider noise that could emanate from their premises in all instances. Where appropriate applicants are recommended to provide a noise management plan with their application. Examples include outdoor events or late evening venues.
- 6.4. When considering licence applications, where relevant representations have been received the Council will take into account measures proposed by the applicant to promote the prevention of nuisance and/or anti-social behaviour. In particular the Council may consider the following matters, where relevant:
- prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices (e.g. the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices);
 - preventing disturbance by customers arriving at or leaving the premises, particularly between 11pm and 7am;
 - preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
 - ensuring staff leave the premises quietly;
 - arrangements for parking by patrons and staff, and the effect of the parking on local residents;
 - provision for public transport (including taxis and private hire vehicles) for patrons;
 - whether licensed taxis or private hire vehicles are likely to disturb local residents;
 - whether routes to and from the premises on foot, by car or other services pass residential premises;
 - the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
 - the use of gardens and other open-air areas;
 - the location of external lighting, including security lighting that is installed inappropriately;
 - other appropriate measures to prevent nuisance, (e.g. registered door supervisors, the use of CCTV);
 - how the premises address refuse storage or disposal problems, or additional litter (including fly posters and illegal placards);
 - the history of previous nuisance complaints proved against the premises, particularly where statutory action has been taken.
- 6.5 The Council is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:
- planning controls;

- powers to designate parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas;
- police and local authority powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the normal law with regard to disorder and anti-social behaviour;
- the power of the police, other responsible authorities, or a local business or resident to request a review of the licence or certificate;
- enforcement action against those selling alcohol to people who are already drunk.

7. PROTECTION OF CHILDREN FROM HARM

7.1 In its role as the licensing authority the Council recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and/or other entertainment. The Act only prohibits unaccompanied children (persons aged under 16) from visiting certain licensed premises. The Council recognises that locally, limitations may have to be considered where it is deemed necessary for the prevention of physical, moral or psychological harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises;
- where there is a presumption that persons under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).

7.2 The Council expects personal licence holders to ensure that they do not serve alcohol to persons under the age of 18, except in limited conditions allowed for by law. The Council recommends that the only way to verify a person's proof of age is with reference to appropriate identification such as:-

- passport
- a photocard driving licence issued in a European Union country;
- a Proof of Age Standards Scheme card (e.g. PASS Card);

7.3 Where appropriate applicants are encouraged to participate in the Challenge 25 age verification scheme.

7.4 The Council recognises the potential risk to children from mobile, remote, internet and other delivery sales of alcohol being made to or accepted on the doorstep of persons under 18. The Council expects applicants for internet and delivery alcohol sales to explain in their application how they will ensure that sales and deliveries are only made to persons over 18. This could include checks whilst taking bookings and ensuring a signature of a responsible adult on delivery.

7.5 Where relevant representations have been received and upheld, when deciding whether to limit the access of children to premises the Council will judge each application on its own merits. To assist with this the Council will consult with Gloucestershire Police and other agencies as appropriate, including the Area Child Protection Committee or Social Services Department. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available would include:

- limitations on the hours when children may be present;
- age limitations for persons under 18;
- limitations on the exclusion of children under certain ages when specified activities are taking place;

- full exclusion of persons under 18 when certain licensable activities are taking place;
- limitation of access to certain parts of the premises for persons under 18;
- a requirement for an accompanying adult to be present.

This list is not meant to be seen as an exhaustive list covering everything, but gives applicants examples of the conditions the Council may seek to impose in meeting its obligation towards the protection of children.

7.6 The Council will not impose any conditions that specifically require the access of children to the premises.

7.7 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs, or a person who has been given a Temporary Event Notice. The Act does not impose any restrictions on individual applicants volunteering prohibitions or restrictions in their Operating Schedules because their own risk assessments have shown that the presence of children is undesirable or inappropriate. In the absence of any relevant representations the volunteered prohibitions or restrictions would become conditions of the licence or certificate.

7.8 The Act details a number of offences that are designed to protect children in licensed premises and the Council will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement, particularly in relation to the sale and supply of alcohol to children.

7.9 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age ranges. In order to prevent children from seeing such films, the Act provides that licences/club premises certificates which authorise the display of films are subject to a mandatory condition requiring licensees to restrict access to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Council itself.

7.10 The Council will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.

7.11 In considering applications where relevant representations have been received and upheld the Council will take into account any evidence that age restrictions for film exhibitions are not being properly observed.

7.12 The Council recognises that some licensees may wish to hold functions or provide facilities targeted specifically towards children (under 16's Disco's, children's parties, supervised crèche/play areas etc).

7.13 In considering applications where relevant representations have been received and upheld the Council will take into account an applicant's Child Protection Policy and measures highlighted within that policy to secure child protection.

NB Gloucestershire County Council Social Services is the responsible authority with regard to the protection of children from harm.

8. CUMULATIVE IMPACT

- 8.1 The Council, as licensing authority, will not take “need” into account when considering an application as this relates to the commercial demand for another pub, hotel or restaurant and is not a matter for a licensing authority. On the other hand, the ‘cumulative impact’ of licensed premises or the promotion of the licensing objectives is a matter for the Council, as the licensing authority, to consider.
- 8.2 The Council recognises that potentially the cumulative impact of a number of late night premises in some areas may result in an increase of people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example;
- an increase in crime against property and/or person(s);
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking problems;
 - littering and fouling.
- 8.3 This may result in the amenity of local residents in some areas being placed under pressure. It will not always be possible to attribute a particular problem to customers of particular premises. Consequently, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems as licence conditions can only relate to matters that the licensee can be expected to control in relation to the carrying on of licensable activities.
- 8.4 Where there is evidence that a particular area of the District is already suffering adverse effects from the concentration of late night premises, when determining any further application for premises within the area identified the Council will take into account:
- the character of the surrounding area;
 - the impact of the licence on the surrounding area, both individually and cumulatively with existing licences;
 - the nature and character of the proposed operation.
- 8.5 The Council will consider representations on the impact on the promotion of licensing objectives when determining the grant of any particular application before them. The onus would, however, be on the objector to provide evidence to support any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.

- 8.6 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the community.
- 8.7 There is currently insufficient evidence to demonstrate that any particular concentration of licensed premises within the District is causing a cumulative impact on one or more of the licensing objectives requiring the Council to adopt a special policy of refusing new licences or restricting applications to vary the licensable activities of existing licensed premises.
- 8.8 Similarly there is currently insufficient evidence to demonstrate that an Early Morning restriction order is required in this district
- 8.9 The Council has not adopted a Late Night Levy.
- 8.10 The situation will be kept under review throughout the period that the Licensing Policy is in force with a view to collecting suitable evidence and then incorporating a special policy if appropriate.
- 8.11 Other mechanisms for controlling cumulative impact
The Council will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licensed premises. For example:-
- Planning controls.
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
 - The provision of CCTV surveillance in town centres
 - Cirencester is subject to Designated Public Places Orders (to be replaced by Public Spaces Protection Orders under Anti-Social Behaviour, Crime and Policing Act 2014) as being places where alcohol may not be consumed publicly except where there is authorisation under the Act
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant offences.
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
 - The confiscation of alcohol from adults and children in designated areas, within the limits of current legislation.
 - Police and local authority powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
 - The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

9. LICENSING HOURS

- 9.1 When dealing with licensing hours, each application will be dealt with on its individual merits. The Council recognises the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.
- 9.2 Unless there are good reasons to the contrary on the grounds of public disorder or crime prevention, shops, stores and supermarkets that sell alcohol will be permitted to do so during the times that they would ordinarily sell other goods. It would be for interested persons or the responsible authorities to prove why this should not be so in any particular case. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance. In order to ensure that objections are not wrongly classified as frivolous or vexatious evidence of issues should be provided by objectors.
- 9.3 The Council will have a flexible approach to opening hours and will generally deal with the issue of licensing hours having due regard to the individual merits of each application in the light of relevant representations received. The Council will take into account requests for terminal hours in the light of the:
- environmental quality;
 - residential amenity;
 - character or function of a particular area; and
 - nature of the proposed activities to be provided at the premises.

Where relevant representations have been received and upheld consideration may, however, be given to imposing stricter controls on noise and disturbance from particular licensed premises, such as those in mainly residential areas.

- 9.4 The Council will not normally set fixed trading hours within designated areas. Stricter conditions with regard to noise control may be demanded in areas that have denser residential accommodation, but this will not normally be considered as a reason to limit opening hours without regard to the individual merits of any application.
- 9.5 Generally the Council sees staggered trading hours as being helpful to the dispersal of patrons from licensed premises, particularly late at night. This removes some of the friction caused by sudden excessive peaks of demand at fast food outlets, taxi ranks and so on.
- 9.6 In keeping with established best practice, the Council encourages applicants in respect of Town Centre premises to include in their Operating Schedule a Closed Door Policy on New Years Eve if operating hours past 12.00 midnight are proposed; the effect of the Closed Door Policy to be to prohibit admission or re-admission to the premises after 11.30pm with a view to reducing disorder and disturbance to members of the public late at night.

~~10. LARGE SCALE OUTDOOR EVENTS~~

- 10.1 A large scale event is considered one where the capacity is more than 499.

- 10.2 Where there is no premises licence in place, it is recommended that a premises licence application should be submitted to the Licensing Service ideally 6 months before the event, but not less than 3 months.
- 10.3 The primary responsibility for safety of attendees at events rests with the event organisers.
- 10.4 Applicants are expected to have reference to The Event Safety Guide - A Guide to Health, Safety and Welfare at Music and Similar Events, commonly referred to as 'The Purple Guide'.
- 10.5 Applicants for large outdoor events are recommended to provide an Event Management Plan (EMP) with their application for a premises licence. For an ongoing premises licence The EMP should be reviewed, updated and submitted to the Council at least 3 months before the event.
- 10.6 The EMP should cover as a minimum the following area (this list is not exhaustive and will vary by event type):
- Site plan including site management, exits, entrances and the structural integrity of all temporary structures
 - Crowd management, stewarding and security plan
 - Use of SIA registered door supervisors
 - Intended activities and entertainment
 - Capacities
 - Alcohol management plan
 - Production details
 - Medical and first aid provision
 - Fire safety and control
 - Noise Management Plan (including hotline telephone numbers and how residents can communicate with the event when it is taking place)
 - Car-parking arrangements
 - Sanitary provisions
 - Concessionary activities
 - Drug Policy
 - Emergency Evacuation Plan
 - Counter terrorism measures
 - Welfare provisions
 - Traffic management plan
 - Refuse and recycling plan
 - Where appropriate measures in place to prevent spread of Covid-19 or similar
- 9.7 In most cases large events will engage the Event Safety Advisory Group (ESAG). The ESAG is a group established to provide specialist advice and guidance in relation to safety at, concerts, festivals and other events.
- 9.8 Applicants for a premises licence for a large event are encouraged to submit a ESAG notification. Where a premises licence has been granted for on-going events the licence holder is encouraged to submit a ESAG notification annually. The notification should be submitted ideally at least 6 months before each event but not less than 3 months.

- 9.9 Applicants are also encouraged to liaise with the Town/Parish Council prior to applying for a licence to hold an event.

10. PROMOTION OF EQUALITY

- 10.1 The Council recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 10.2 Public authorities are required to publish information at least annually to demonstrate their compliance with the equality duty. The Council is firmly committed to providing and promoting equality for all its employees, service users and the wider community. Further information and data is provided on the Council's website.

Access And Evacuation For Persons With Disabilities

- 10.3 Disabled people have the right to access services. There are clear legal responsibilities under the Disability Discrimination Act 1995, requiring all service providers to make reasonable adjustments to enable disabled persons to access the service thereby ensuring that disabled people are not discriminated against.

11. ENFORCEMENT AND COMPLAINTS

- 11.1 The Council recognises the contribution that can be made by developing effective working practices with its partner agencies. The Council will establish enforcement protocols with the Gloucestershire Constabulary, Gloucestershire Fire and Rescue Service and other relevant partnership agencies to ensure efficient deployment of the Council's enforcement staff and thereby avoiding duplication of effort when carrying out inspection or enforcement matters.
- 11.2 The Council recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events which include -
- Planning controls
 - Enforcement of Environmental Protection legislation (e.g. on noise nuisance)
 - Positive measures to provide a safer and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
 - Powers to designate parts of the District as places where alcohol may not be consumed publicly
 - Police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
 - Police powers to confiscate alcohol from adults and other in designated areas

- Police and local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
 - The power of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.
- 11.3 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act. The Council will monitor premises and take any appropriate enforcement action to ensure compliance.
- 11.4 All decisions and enforcement actions taken by the Council will be in accordance with the Council's Enforcement Policy and the principles of consistency, transparency and proportionality.
- 11.5 The Council may when appropriate employ licensing enforcement officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with the Gloucestershire Police in enforcing licensing legislation.
- 11.6 The Council will continue to work with its partner agencies in enforcing the licensing laws and in the inspection of premises to ensure the licensing objectives and licence conditions are met. In particular the Council will target its inspection process proportionally towards those premises that are considered as 'problematic' and 'high risk' premises requiring greater attention, while providing the minimal input in respect of low risk premises that are run well.
- 11.7 In undertaking the inspection of licensed premises the Council will promote the following categories of risk weighting:
- Town Centre Public Houses and Night Clubs - Medium to High Risk (dependant upon history).
 - All other Public Houses - Low to Medium Risk (dependant upon history)
 - Premises where there is 'regulated entertainment' as defined by the Act, including auditoria, social clubs and meeting halls as well as pubs, clubs and theatres - medium to high risk (dependent upon history)
 - Town Centre Late Night Refreshment Houses - Medium to High Risk (dependant upon history)
 - All other premises where the primary purpose is serving food - Low Risk (dependant upon history)
 - All other existing sites within the district - Low Risk (dependant upon history)
 - New sites not listed above - to be assessed dependant upon location and style of operation and operators.
- 11.8 The Council is prepared to investigate complaints against licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.
- 11.9 Where an other person (such as a local resident, or a resident's association) has made a valid representation about licensed premises or a valid application for a licence to be reviewed, then the Council will initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.
- 11.10 The Council can only review a licence where it is alleged that the licensing objectives are being breached. It views particularly seriously applications for the review of any premises licence where it involves the:

- use of licensed premises for the sale distribution of Class A drugs and the laundering of the proceeds of drugs crimes.
- use of licensed premises for the sale distribution of illegal firearms
- evasion of copyright in respect of pirated films and music.
- Underage purchase and consumption of alcohol
- Use of licensed premises for prostitution or the sale of unlawful pornography
- Use of licensed premises for unlawful gaming.
- Use of licensed premises as a base for organised criminal activity.
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks.
- Use of licensed premises for the sale of smuggled tobacco or goods.
- The use of licensed premises for the sale of stolen goods.
- Where the police are frequently called to attend to incidents of disorder.
- Prolonged and/or repeated instances of public nuisance.
- Where serious risks to public safety have been identified, for example breach of health and safety standards or fire safety standards, and the management is unable or unwilling to correct those.
- Where serious risks to children have been identified.
- Immigration offences such as employment of persons who do not have the right to work in the UK

11.11 This process will not override the right of any other person to ask the Council's Licensing Committee to consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

NB A copy of the Council's Enforcement Policy is available on the Council's website (www.cotswold.gov.uk).

11. FURTHER INFORMATION AND CONTACT DETAILS

11.1 For further information about the Council's Licensing Policy, the Act and any other licensing matters applicants and other persons should please contact:-

Licensing Team
Cotswold District Council
Trinity Road
Cirencester
GL7 1PX

Telephone No.: 01285 623000

Email: ers@cotswold.gov.uk

Website: www.cotswold.gov.uk

Personal callers are welcomed during office hours but prior appointments should be made where technical advice or information is required to ensure that an Officer is available.

TABLE OF DELEGATED FUNCTIONS

| Matter to be dealt with | <u>Full Committee</u> | <u>Sub Committee</u> | <u>Officers</u> |
|--|-----------------------|------------------------------------|----------------------|
| Application for personal licence with no unspent criminal convictions | | | All cases |
| Application for personal licence with unspent relevant convictions | | If Police Objection | If no objection |
| Hearing to determine Suspension or Revocation of a Personal Licence following a relevant Offence | | All cases | |
| Application for premises licence/club premises certificate | | If a representation | If no representation |
| Application for provisional statement | | If a representation | If no representation |
| Application to vary premises licence/club premises certificate | | If a representation | If no representation |
| Application to vary designated personal licence holder | | If a police representation | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises licence | | If a police representation | All other cases |
| Application for interim authority | | If a police representation | All other cases |
| Application to review premises licence/club premises certificate | | All cases | |
| Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc | | | All cases |
| Decision to object when Local Authority is a consultee and not the lead authority | | | All cases |
| Determination of a police representation to a temporary event notice | | All cases | |
| Application to disapply the mandatory conditions for alcohol sales at community | | If a police representation is made | All other cases |

| | | | |
|---|--|--|-----------|
| premises | | | |
| Application for minor variation to premises licence/club premises certificate | | | All cases |

APPENDIX B

GLOSSARY

Club Premises Certificate

A certificate granted to a qualifying club under the Act. Alcohol must not be supplied other than to members and guests by or on behalf of the club.

Designated Premises Supervisor

A person named on a premises licence who has overall responsibility for sales of alcohol. This person must be a personal licence holder and is normally the person that has day to day control of the premises

Hearing

A meeting of a panel of three Councillors (Sub Committee) from the Committee that deals with licensing matters who will consider an application where there has been relevant representation, objection or a request for a review

Late Night Refreshment

Provision of hot food or hot drink to members of the public, for consumption on or off the premises, between 11 pm and 5 am

Other Person

Any person, business or organisation. An 'Other Person' can make representation about premises licence and club premises certificate applications and can request a review of a premises licence or club premises certificate

Personal Licence

Licence issued to a person that authorises them to sell alcohol in, or to authorise another person to sell alcohol, in accordance with a premises licence. A personal licence is issued to an individual's home address and has effect indefinitely (has no end date).

Premises

Means any place and includes a building, outdoor area, vehicle, vessel or moveable structure

Premises Licence

Licence that authorises the premises to be used for one or more licensable activity

Representation

Comment made against, or in support of an application for a new premises licence or club premises certificate or a variation to a premises licence or club premises certificate or a review of a premises licence or club premises certificate. A representation can be made by a responsible authority or other persons. The representation must be made during the representation period

Temporary Event Notice

A notice given to the Council of intention to hold a temporary event where licensable activities will take place. The person submitting the notice must do so at least 10 clear

working days before the event. A late temporary event notice is one given within 5 to 9 clear working days.

APPENDIX C

RESPONSIBLE AUTHORITY CONTACT DETAILS

| | |
|--|---|
| Licensing Authority | Licensing Team, Cotswold District Council, Trinity Road, Cirencester GL7 1PX Telephone: 01285 623000 Email: ers@cotswold.gov.uk |
| Gloucestershire Constabulary | Harm Reduction, Police Headquarters, No 1 Waterwells, Quedgeley, Gloucester, GL2 2AN Telephone: 01452 754482 Email: Licensing@Gloucestershire.pnn.police.uk |
| Gloucestershire Fire & Rescue Service | Chief Fire Officer Fire Service HQ, Waterwells Drive, Quedgeley Gloucester GL2 2AX Telephone: 01452 753333 Email; fire@glosfire.gov.uk |
| Local department with responsibility for Planning | Planning Team, Cotswold District Council, Trinity Road, Cirencester GL7 1PX Telephone: 01285 623000 E-mail: planning@cotswold.gov.uk |
| Local department with responsibility for Environmental Pollution | Technical Pollution Services Team, Cotswold District Council, Trinity Road, Cirencester GL7 1PX Telephone: 01285 623000 E-mail: ers@cotswold.gov.uk |
| Local department with responsibility for Health & Safety | Food, Health and Safety Team, Cotswold District Council, Trinity Road, Cirencester GL7 1PX Telephone: 01285 623000 E-mail: ers@cotswold.gov.uk |
| Gloucestershire Safeguarding Children Board | Gloucestershire Safeguarding Children Board Block 4, 1st Floor, Room 133B, Shire Hall, Westgate Street Gloucester, GL1 2TH Telephone : 01452 583636 E.mail: gscb@gloucestershire.gov.uk |
| Trading Standards | Gloucestershire Trading Standards Service, The Tri-Service Centre, Waterwells Drive, Quedgeley, Gloucester GL2 2AX Telephone: 01452 426201 E-mail: tradstds@gloucestershire.gov.uk |
| Local health body representative | Public Health Department, Block 4, 2nd Floor Gloucestershire County Council Shire Hall, Westgate Street, Gloucester, GL1 2TG Telephone: 01452 328607 E-mail: Publichealth@gloucestershire.gov.uk |

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| PREMISES NAME | COMMENTS ON DRAFT LICENSING ACT POLICY | COMMENTS BY LICENSING |
|--------------------------------------|---|--|
| Ampney Crucis Village Hall. | Seems comprehensive. | N/A |
| Longborough & Sezincote Village Hall | Agree with the draft changes | N/A |
| Bittenham Springs | All looks O.K | N/A |
| Lower Slaughter Village Hall | No comments | N/A |
| Weston sub Edge Village Hall | <p>"Section 3.25. I suggest a more general statement of policy, rather than a specific for COVID 19 requirements. eg The section could be worded to cover ANY temporary changes determined by requirements from HM Government rather than particularly those from COVID 19 restrictions. In a years time the COVID restrictions will be irrelevant but restrictions for other reasons could potentially be imposed."</p> | Policy can be reviewed at any time. Any statutory requirements override policy |
| Stow on the Wold Town Council | <p>"The existing para 7.2 on page 17 (see below in italics) is part outdated by Brexit and does not cover some foreign nationals likely to be encountered in the Cotswold area in that the NATO Status of Forces Act (NATO SofA) allows entry into the UK of visiting forces personnel without a national passport but instead under cover of a military identification (ID) card plus a NATO Travel Order. In practice single travel orders are not issued when travelling in a group as a collective one will do for the point of entry, but individual photo ID Cards are always carried. Similar arrangements under different arrangements can apply to Commonwealth countries.</p> | S.10.46 of S.182 Guidance states 'identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram' Draft policy updated to reflect this |

| | | |
|--|--|--|
| <p>Stow on the Wold Town Council cont.</p> | <p>7.2 The Council expects personal licence holders to ensure that they do not serve alcohol to persons under the age of 18, except in limited conditions allowed for by law. The Council recommends that the only way to verify a person’s proof of age is with reference to appropriate identification such as:-</p> <ul style="list-style-type: none"> • Passport • a photocard driving licence issued in a European Union country; • a Proof of Age Standards Scheme card (e.g. PASS Card); <p>Thus, it is suggested that 7.2 is amended as follows:</p> <ul style="list-style-type: none"> • Bullet point 2 – delete “issued in a European Union Country” • Add new bullet point “ A military photo ID Card” | |
|--|--|--|

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|---|---|
|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL - 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 11</p> |
| <p>Subject</p> | <p>REPORT OF THE WORKING GROUP INVESTIGATING SHORT TERM LETS (STL)</p> |
| <p>Wards affected</p> | <p>ALL</p> |
| <p>Accountable member</p> | <p>Cllrs Tony Berry and Clive Webster Joint Chairs of the Short Term Let Working Group</p> |
| <p>Accountable officer</p> | <p>Phil Shaw Business Manager Development Management Tel: 01993 861687 Email: phil.shaw@publicagroup.uk</p> |
| <p>Summary/Purpose</p> | <p>Members will recall that on 18 November 2020 they agreed to set up a cross party working group (“the Group”) to look at the impact of properties let for short periods and in particular the implications for neighbours. The requirement was that they report back to Council in June 2021. The group has met roughly monthly since it was initiated, has called a number of witnesses and has created an evidence base which has helped to define the key issues and clarify those areas where the Council can act, those that lie beyond its direct control, identified where further work is required and is reporting upon a number of associated issues that may warrant further investigation. This report sets out the key findings.</p> |
| <p>Annexes</p> | <p>Annex A Draft enforcement protocol Annex B Summary of recommendations</p> |
| <p>Recommendation/s</p> | <p>a) <i>That Council authorises Cllr Berry to send a letter to the local MP seeking his support regarding the changes to the legal position as outlined in this report</i></p> <p>b) <i>That the Council consider the issues summarised at Annex B to agree whether further action should be taken</i></p> <p>c) <i>Taking account of any further actions required as a result of recommendation b) that the Chief Executive be asked to oversee the preparation of a report back to Council with an Action Plan detailing how and when such actions will be progressed</i></p> |
| <p>Corporate priorities</p> | <p>Ensure that all services delivered by the Council are delivered to the highest standard</p> <p>Help residents, businesses and communities to access the support they need to ensure a high level of health and well-being</p> |

| | |
|-----------------------------|--|
| | |
| Key Decision | No |
| Exempt | No |
| Consultees/ Consultation | Members of the Working Group have undertaken informal consultation with their local Parishes to sense- check findings as they emerged. |

I. BACKGROUND

Following some complaints regarding the use of larger properties being let to parties of people who created disturbance to neighbouring properties (and in one case the withdrawal of an offer to buy), a cross party motion to investigate this as an issue within the Cotswolds was agreed at the November 2020 Council Meeting and a working party set up with a goal to report back to Council. The original motion and resolution from November read :

Motion 4 of 2020/21 – Short Term Lets

Proposed by Councillor Tony Berry, Seconded by Councillor Clive Webster.

“Council notes that properties being let to large groups of people on a short-term holiday let basis, particularly when situated in villages, can cause nuisance and have a negative impact on neighbouring properties.”

Councillor Berry thanked Councillor Webster for the work that had been carried out on bringing this motion to Council.

Councillor Berry explained that where large houses are being let by agencies, that are outside the rules in terms of the normal letting cycle. Housing for over seven people, let out short term, should be classed as a ‘house in multiple occupation’, and should have had business approval, in relation to business rates as opposed to Council Tax, it should be a business transaction. A cross party working group was proposed to gather more evidence.

Councillor Webster seconded this motion and thanked Councillor Berry for raising this. He reiterated that it was a nuisance across the district when large houses were let out, possibly for parties, and a noise nuisance log had to be built up over three weeks, which is unhelpful when people are visiting for a short amount of time. It would be useful to see how other Councils were tackling this problem and what other options were available for the Council.

Concern was expressed that it was not just one well-known agency that rents out large houses for a short period, other agencies in the District also do this. There was a balance to be struck, with flexible options brought back to Council.

RESOLVED:

- (a) that a working group is established to explore options seeking to ensure that the impact on the locality is no worse than that which would apply to a domestic dwelling;**
- (b) that the working group reports its findings back to Council by June 2021.**

The group comprised Cllrs Tony Berry and Clive Webster as Joint Chairs along with Cllrs Gina Blomefield, Nikki Ind, Dilys Neill and Lia Spivey and was supported by Phil Measures (Service Leader ERS), Marie Barnes (Legal Executive) James Brain (Planning Policy Manager) Chris Jackson (Shared Tourism Services Manager) and Phil Shaw (Business Manager DM).

Whilst the Group, as a result of the terms of reference, were focussed on the “issues” created and the options available through Council administered services to resolve them, it should also be made clear that the benefits of a strong tourism business in the Cotswolds were fully recognised; the Group had no intention of challenging this, but rather were seeking to address those specific instances of the behaviour of visitors that are not in keeping with what makes this area so attractive to live in or visit.

2. ISSUES OF CONCERN WITH THE OPERATION OF STL

2.1. During the course of its investigations the group looked at anecdotal and other evidence as to what were the concerns that had led to the formation of the group. This ranged from investigating the controls levied by operators of such premises by undertaking mystery shopper style searches to looking at who else had undertaken research into the issues surrounding STL. Officers were also asked to prepare specific topic papers for discussion. This has all been collated and is stored on a shared drive for future reference. It was considered that in mapping these it would assist in formulating a response and also act as a record and a resource for others who may need to consider policy and enforcement actions in the future.

2.2. The group batched the concerns under the following headings:

NOISE:

- People eating, drinking and playing music late into the evening.
- Amenities such as hot-tubs, BBQ's, gazebos etc being used late at night.
- Fireworks, which together with Chinese lanterns, bring in another set of issues.
- Disturbance during changeover period of servicing the property

PARKING:

- insufficient parking at the house and guests are invited to park outside the premises
- Parking often on narrow village lanes which are used by the residents.
- Use of resident parking
- Off-site parking away from the property
- Danger of access to parking
- Not allowing enough room for farm machinery or emergency vehicles to pass.

RUBBISH:

- Guests rarely know about rubbish collection dates and recycling, leaving refuse by the bins and making a mess (aided and abetted by the local wildlife!).
- Bins left in street long before/after collection dates

In terms of the District Council's powers the group identified four themes that were potentially inhibiting effective control over the above issues

- lack of clarity as to how to PREVENT issues arising in the first place
- lack of clarity as to the extent of the problem and the best means to MANAGE, enforce and control issues as were arising
- Potential inconsistent application of ENFORCEMENT powers
- Existing powers did not fully address the problems and so LEGISLATIVE CHANGE was required

3. LEGAL POSITION

- 3.1. The legal position is complex and covers areas including, (private) Land law and Civil nuisance, Environmental and Planning law, and, to a lesser extent, Human Rights. It is clear that there is no single position or regulation in law that can be relied on to regulate the areas of concern. The following sections of the report refer to those laws within the Council's powers.
- 3.2. Parliament and the Scottish Government have however looked into the issues surrounding the operation of STL and the Group has added the findings of those bodies to its archive. Additionally as a result of enforcement action being taken by Councils' a body of case law is emerging that is helping to define when they do and do not come under control. The Scottish Government is considering:
1. Licensing for short term lettings.
 2. Giving LA's the ability to designate control areas.
 3. Undertaking a review of the tax treatment for short-term letting.
- 3.3. Ideally something along the lines of the Scottish proposal would give LA's the ability to control this problem where such control is currently lacking, for which primary legislation would be required.
- 3.4. A key finding of the group is thus that the Council seek to elicit the support of the local MP in supporting changes to primary legislation to look at introduction of legislation based upon the Scottish Model

4. MAIN EXISTING CONTROLS

4.1.1. Planning

The planning position is complex. There is a wide spectrum between those STL that clearly do not come under planning control (occasional use of a family house let out for short periods) and those that clearly do (large properties or where the frequency of use and impact in context mean that emerging case law enables that planning enforcement action might be considered expedient) Each case needs to be looked at on its merits.

However, in the course of investigating the planning policy position where STL do come under control, it has been agreed that the existing policies in the Local Plan could be clearer and that the lower case text that sits under these policies could help to identify the likely issues that would need to be addressed. The Planning Policy Manager has agreed to pick this work up as part of the review of the Local Plan along with looking at creation of a data base of the number of such properties such that the implications of housing coming out of conventional use and into STL for housing need, affordability etc can also be factored into Planning Policy making.

4.1.2. Environmental Health

Similarly there are a range of powers potentially available to address noise and other impacts that come under Environmental Health legislation. Again, however it is not always straight forward to administer these controls because of the potential difficulty of reporting it when the office is closed, the fact it may be "one bad occupier" as opposed to the owner who is the cause of the concern, it may be difficult to persuade a court as to the expediency of action unless there is an ongoing and repeated breach of legislation.

Sweeping up the points regarding difficulties in raising complaints, monitoring the extent of complaints, ensuring that the range of powers that are available are considered when complaints are received the group considered that further training and advice to staff was required along with a communications strategy looking at helping residents to raise complaints and operators to avoid problems arising through good management.

4.1.3. The Operators

As the work developed it was hoped that the introduction of a code of conduct may be a possible means whereby good behaviour could be encouraged both for those letting the property but also for those occupying it. However, much of the sector lies outside the control of the formal tourism sector and it was not clear that imposing further requirements on that part of the sector that are already using accreditation etc would address the issue of how to get the unregulated sector to engage with the need to minimise harmful impacts.

4.1.4. Recommendations

A key finding of the group arising from the above is thus that the Group recommends that the Local Plan Review Board looks into the planning policy that applies when STL do come under planning control as the LP is reviewed as part of the Local Plan process; that this review is informed by a database of how many of these units are operating in the District (which may also have implications for affordability, housing need etc) and with the aim of addressing the noise, parking and rubbish issues identified above.

4.1.5. The scripts for Customer Services should also be refreshed to help guide complainants towards the most appropriate contact; the recording of such complaints should be batched together such that the size of the problem can be better identified and that the Business Manager Development Management and the Service Manager for Environmental Health should create a document (based on Annex A) that identifies the likely key issues and the potential enforcement solutions so that the full range of enforcement options is available to staff dealing with the complaint. This document should form the basis of a training programme for relevant Planning, Environmental Health and Customer Services Staff and furthermore should also form part of a Comms and engagement strategy looking at helping residents to raise complaints but also helping operators to avoid problems arising

4.1.6. A further key finding of the group was that the Shared Tourism Services Manager should be asked to pass on the key issues to the regulated sector to ensure that they were addressed in their accreditation schemes but additionally that a bespoke Comms operation was needed to help identify the benefits to operators, residents and occupiers of operating in a responsible manner

5. OTHER MATTERS RAISED

During the course of its investigations, the Group came upon matters that it considered may have financial or other impacts upon the Council but which it felt lay beyond the term of reference of the Group and as such which it was agreed would be reported to Council to ascertain whether it considered further investigation should be undertaken.

These matters were:

- Whether some properties were being claimed as STL but were really second homes and advantage was being taken of the fact they were classed as a business and not a property for council tax purposes?
- Whether the Council was supplying domestic waste containers to what were effectively businesses and the cost implication of this?
- Whether properties were insured for business purposes and met any necessary fire regulations as may apply to businesses as opposed to houses?

6. FINANCIAL IMPLICATIONS

6.1. None arising directly from the working of the group

7. LEGAL IMPLICATIONS

7.1. Other than those referred to in this Report there are no further legal implications which may arise directly.

8. RISK ASSESSMENT

Not applicable.

9. EQUALITIES IMPACT (IF REQUIRED)

Not applicable.

10. CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)

10.1. None.

11. ALTERNATIVE OPTIONS

None.

12. BACKGROUND PAPERS

The terms of reference, key findings, agenda and minutes of the Working Group have been archived in a Google Doc library for future reference as required.

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Short Term Lets Issues and enforcement

Is planning Permission always required?

Starting at first principles: planning control arises only where there is a material change of use. If an owner rents out their house on a shorthold tenancy i.e. 6 month let, the chances are it will be to a single person/couple/family and they will occupy the property as a residential dwelling house. Therefore no change of use has occurred and so no planning control applies. Problems can however arise for certain short term, or holiday lets (eg. AirBnB) because of the particular characteristics of certain short-term letting use and this may bring them under planning control.

Factors that bring holiday lets under planning control

In the case of *Moore v Secretary of State for Communities and Local Government* [2012], the Court of Appeal stated that using a dwelling house for commercial holiday lettings will not always amount to a material change of use, nor is it that the use of a dwelling house for commercial holiday lettings can never amount to a change of use: it is a matter of fact and degree in each case. In *Moore*, the dwelling was large (8 bedrooms) and could accommodate up to 20 guests. Large non-family groups stayed there, with lots of comings and goings, vehicular movements, parking, noise and general disturbance. There was found to have been a material change of use to a sui generis use described in the enforcement notice as "commercial leisure accommodation". Similar action was taken by WODC in bringing enforcement action at Newland Mill, against a "party house" use, that is, unrelated groups of people congregating primarily to socialise which is a fairly obvious example of occupation which, as a matter of fact and degree, falls outside normal residential use. Residential Use (Class C3) in the now heavily amended Use Classes Order 1987 is described as use as a dwelling house whether or not as a sole or main residence by:

- C3(a) a single person or
- people to be regarded as forming a single household (as construed in accordance with section 258 of the Housing Act 2004), or
- C3(c) not more than 6 people living together as a single household (not including HMOs).

With non-family groups (which may well exceed 6 in number) it can be argued that they fall outside the definition of C3(c) but in addition, usually the large number of cars arriving and departing and noise/disturbance issues associated with large groups will in any event be consistent with a change in the planning character of the use.

Is it only larger properties that need permission?

For larger properties used regularly for holiday lets/gatherings it is relatively easy, for the reasons given above, to demonstrate that a material change of use from C3 requires planning permission. Interestingly, however, the planning impacts arising from smaller properties being used for short-term lets are now being recognised, as a case involving Oxford City Council seems to show. The property in that case was a more modest dwelling with small garden and no off-street parking and occupation was stated to be restricted to a maximum of 4 residents – well below the parameters of C3(c). However what

appeared to be important in this decision was the inspector's finding as to the sheer level of turnover of occupants which he considered to be inconsistent with the pattern of occupancy normally associated with use of a dwelling house. In this case the inspector took into account the fact that newcomers to a property will usually be unfamiliar with parking arrangements, the location of the keys to the property and as such there was also a "transient pattern" of activity that was materially different from that associated with a dwelling house. In addition, frequent turnovers meant that cleaning/housekeeping staff would be visiting the property more frequently and this "increased intensity of service provision" was another factor distinguishing the use of this property from residential use. The inspector concluded that the level and character of the activities on site were materially different from those associated with a dwelling house and a material change of use had taken place.

Summary of Planning Position

With short-term lets of properties where there is a high rate of turnover of occupiers and where properties are used to accommodate large groups of people, there is likely to be a need for planning permission on the basis that the residential character of the use has changed in a material way. Factors that will evidence this change of use over a period of time will include website advertising and reviews establishing the volume of turnover, types of bookings (family/non-family groups) and the number of guests, use of guest logs and activity logs undertaken by affected adjoining residents.

What other forms of legislation and control are there?

A) Housing Conditions.

The condition of a property is regulated under Housing legislation. The emphasis is on the protection of the occupants (their health and safety). Houses in Multiple Occupation are regulated under this legislation. However, Holiday lets and Guest Houses are regulated by the Fire and Rescue Service. Landlords are responsible for completing a fire risk assessment and they must ensure gas and electrical safety checks are routinely carried out. (Housing Act 2004. Regulatory Reform Order 2005)

B) Behaviour of owners, occupiers and tenants.

Statutory Nuisance: Noise and other nuisances (e.g. accumulation of rubbish/noxious material).

The Council can deal with specific complaints about properties that are causing a nuisance to neighbours and action can be taken where the evidence amounts to a Statutory Nuisance. (Environmental Protection Act 1990)

Anti-social Behaviour (ASB) : Housing and ASB legislation - Ongoing harassment, alarm and distress. Under the Housing Act 2004, selective licensing schemes to licence all rental properties within a defined area can be introduced, subject to consultation. There are specific reasons that allow for the consideration of introducing such a scheme and anti-social behaviour caused to an area can be one of them. However, there has to be evidence of ongoing ASB affecting the community and one must demonstrate that other measures have not been effective or appropriate. Selective licensing cannot be applied to holiday lets. Closure/Management Orders can be sought by the Council where a property is causing

ASB to to the community. Under housing legislation this only applies to housing under Part 3 and 4 and therefore not to holiday lets. For a Special Interim Management Order, an application is required to the First Tier Tribunal. One needs to demonstrate that it is required to protect health safety and welfare of those living in the property and its vicinity. (Housing Act 2004).

Under ASB legislation , Closure Orders can be sought by the Police or the Council. This is usually applied to control those having access to the property. Applications for an extended closure have to be made to a Magistrates court. (Anti-Social Behaviour Crime and Policing Act 2014).

Community Protection Notices (CPN) . These can be applied to individuals and those in control of businesses that are causing ongoing anti-social behaviour to a community. Breaches can result in fines or prosecution. Therefore if a landlord was permitting or encouraging ASB at a holiday let then a CPN could be used to control or prevent such activities. (Anti-Social Behaviour Crime and Policing Act 2014).

What else may need to be considered?

As well as formal controls as set out above there are also other issues to consider such as whether the property is insured for commercial use, do domestic or commercial waste disposal arrangements apply, are all electrical appliances safe and properly tested, is the correct business rate being paid, is the occupation in accordance with the terms of any mortgage, does the letting of the property accord to the terms of any letting agency or organisation etc etc??

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Annex B- Summary of recommendations

- a) The Group recommends that the Local Plan Review Board looks into the planning policy that applies when STL do come under planning control as the LP is reviewed as part of the Local Plan process, that this review is informed by a database of how many of these units are operating in the District (which may also have implications for affordability, housing need etc) and with the aim of addressing the noise, parking and rubbish issues identified.

- b) The scripts for Customer Services should be refreshed to help guide complainants towards the most appropriate contact, that the recording of such complaints should be batched together such that the size of the problem can be better identified and that the Business Manager Development Management and the Service Manager for Environmental Health should create a document (based on Annex A) that identifies the likely key issues and the potential enforcement solutions so that the full range of enforcement options is available to staff dealing with the complaint. This document should form the basis of a training programme for relevant Planning, Environmental Health and Customer Services Staff and furthermore should also form part of a Comms and engagement strategy looking at helping residents to raise complaints but also helping operators to avoid problems arising

- c) A key finding of the group was that the Shared Tourism Services Manager should be asked to pass on the key issues to the regulated sector to ensure that they were addressed in their accreditation schemes but additionally that a bespoke communications operation was needed to help identify the benefits to operators, residents and occupiers of operating in a responsible manner

- d) Other matters raised
 - Whether some properties were being claimed as STL but were really second homes and advantage was being taken of the fact they were classed as a business and not a property for council tax purposes?
 - Whether the Council was supplying domestic waste containers to what were effectively businesses and the cost implication of this?
 - Whether properties were insured for business purposes and met any necessary fire regulations as may apply to businesses as opposed to houses?

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|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL – 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 12</p> |
| <p>Subject</p> | <p>REFRESH OF THE CONSTITUTION: RESPONSIBILITY FOR FUNCTIONS, NON-EXECUTIVE SCHEME OF DELEGATION TO OFFICERS, PLANNING PROTOCOL, & FINANCIAL RULES.</p> |
| <p>Wards affected</p> | <p>ALL</p> |
| <p>Accountable member(s)</p> | <p>Cllr Joe Harris - Leader of the Council Email: joe.harris@cotswold.gov.uk</p> |
| <p>Accountable officer(s)</p> | <p>Jenny Poole, Deputy Chief Executive Tel: 01282 623313 Email: jenny.poole@cotswold.gov.uk Angela Claridge, Monitoring Officer (interim). Tel: 01282 623219 Email: angela.claridge@cotswold.gov.uk Deborah Smith, Planning Manager, Cotswold District Council Tel: 01282 623500 Email: deborah.smith@cotswold.gov.uk</p> |
| <p>Summary/Purpose</p> | <p>To update Council on the work and recommendations of the Constitution Working Group who have been modernising the Constitution.</p> |
| <p>Annexes</p> | <p>Appendix 1: Current Part C of the Constitution – “Responsibility for Functions” Appendix 2: Proposed Part C of the Constitution – “Responsibility for Functions” Appendix 3: Current Non-Executive Scheme of Officer Delegation (Powers Delegated to the Senior Officer responsible for Planning) Appendix 4: Proposed Non-Executive Scheme of Officer Delegation. Appendix 5: Current Planning Protocol Appendix 6: Proposed Planning Protocol Appendix 7: Proposed Financial Rules (with track changes)</p> |
| <p>Recommendation/s</p> | <p>That Council:</p> <ol style="list-style-type: none"> I. Adopt the updated Responsibility for Functions at Appendix 2 II. Adopt the revised Non-Executive Officer Scheme of Delegation at Appendix 4. |

| | |
|-----------------------------|---|
| | <p>III. Adopt the updated Planning Protocol at Appendix 6.</p> <p>IV. Adopt the updated Finance Rules at appendix 7.</p> <p>Authorise that the Monitoring Officer:</p> <p>V. Be authorised to update the Constitution to reflect the inclusion commitments of the Council, changing <i>'he or she'</i> to <i>'he, she or they'</i> and change <i>'his or her'</i> to <i>'his, her or their'</i>.</p> <p>VI. be authorised to publish a final clean version of the constitution (removing track changes, correct any numbering, editing or formatting errors).</p> |
| Corporate priorities | Ensure that all services delivered by the Council are delivered to the highest standard |
| Key Decision | No |
| Exempt | No |
| Consultees/ Consultation | <p>Elected Members of the Constitution Working Group</p> <p>Monitoring Officer</p> <p>Deputy Chief Executive/S151 Officer</p> <p>Interim Head of Legal Services</p> <p>Senior Management</p> <p>Finance Team</p> <p>Business Manager Development Management</p> <p>Planning Officers</p> <p>Heritage Manager</p> |

1.0 BACKGROUND

1.1 The Constitution 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. The Council has a legal duty to publish an up to date Constitution and it should be reviewed annually with any necessary changes being considered at the Full Council.

1.2 The Constitution must contain:

- the Council's standing orders/procedure rules;
- the members' code of conduct;
- such information as the Secretary of State may direct;
- such other information (if any) as the authority considers appropriate.

1.3 Last year, the Council established a cross party Constitution Working Group who agreed a work programme of proposed changes to ensure the Constitution is kept up to date.

1.4 This report deals with revisions to:

- a) Part C of the Constitution "Responsibility for Functions";
- b) Non-Executive Scheme of Officer Delegations;
- c) Planning Protocol;
- d) Finance Rules.

2.0 RESPONSIBILITY FOR FUNCTIONS

2.1 Part C of the Council's Constitution sets out the Responsibility for Functions across a number of sub-headings:

- Council;
- Cabinet;
- Leader of the Council;
- Deputy Leader of the Council;
- Cabinet Portfolio Holders;
- Planning & Licensing Committee;
- Overview & Scrutiny Committee;
- Audit Committee;
- Appeals Committee;
- Senior Appraisal & Remuneration Panel;
- Working Groups; and,
- Roles & Responsibilities of all Councillors.

2.2 These functions have been re-written and are included at Appendix 2 for Council's consideration. As they are a considerably different from the existing Constitution, the current version is included at Appendix 1 for Members to compare with. They have been re-written

in line with best practice, which better reflects the values of the Council, are accessible, up to date and easier to use.

2.3 In addition to a different layout, the revised Part C includes new sections to support public transparency with an explanation relating to a) Principles of Decision Making and b) Key Decisions and the Forward Plan, and a glossary of terms.

2.4 The revisions in Part C align with the draft Financial Rules - in that the financially significant value referred to when considering if a decision is a key decision or not, is increased from £100,000 to £150,000.

3.0 NON-EXECUTIVE SCHEME OF OFFICER DELEGATION

3.1 Records in Democratic Services show that the Council, with the exception of those relating to Planning functions, last updated the Non-Executive Scheme of Officer Delegation several years ago. As a result they are significantly out of date - the proposed Scheme at Appendix 4 is totally revised.

3.2 The Non-Executive Scheme of Officer Delegations for planning functions was approved by Council on 18th November 2020. Members had already provided feedback that they would prefer a more tabular layout. As a result the Proposed Non-Executive Scheme of Officer Delegation, shown at Appendix 4, reformats those relating to Planning, and updates officer delegations for other non-executive functions.

4.0 PLANNING PROTOCOL

4.1 The Planning Protocol at Appendix 5 was approved by Full Council on 18th November 2020. A six monthly review of the Protocol has necessitated minor changes but seek to provide clarity and consistency with the practical implementation of the Scheme of Delegation. Most notably, clarity is provided in relation to the operation of the Review Panel (para. 2.3 of the Protocol). The revised Planning Protocol is included at Appendix 6.

5.0 PROPOSED FINANCE RULES.

5.1 Appendix 7 is an update to the Financial Rules. The key changes are:

- Updates to post titles to reflect the new Publica staff structure;
- An uplift to most Cabinet thresholds from £100,000 to £150,000; and;
- An uplift of Cabinet threshold for property investment decisions from £500,000 to £1,000,000 and a removal of the lower threshold for Social Housing

6.0 FINANCIAL IMPLICATIONS

6.1 None specific or arising from this report.

7.0 LEGAL IMPLICATIONS

7.1 Save that any changes to the Constitution need to be approved by Council, there are no specific legal implications arising from the recommendations in this report.

8.0 RISK ASSESSMENT

8.1 There are no specific risks associated with this report. However, failure to have a robust and up to date Constitution does place the Council at the risk of legal challenge.

9.0 ECOLOGICAL AND CLIMATE EMERGENCY IMPLICATIONS (IF REQUIRED)

9.1 Not applicable

10. ALTERNATIVE OPTIONS

10.1 Full Council could decide not to adopt some of the revisions and refer back to the Constitution Working Group for further consideration.

BACKGROUND PAPERS

Council's Constitution (available on the Cotswold.gov.uk website).

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Appendix 1

Part C

Responsibility for Functions

COUNCIL

The Council will have sole responsibility for the following functions:-

- (a) adopting and changing the Constitution (other than any Protocol which falls within the Terms of Reference of any Committee);
- (b) approving and adopting the Policy Framework and the Budget;
- (c) agreeing and/or amending the terms of reference for the Cabinet and Committees; and deciding on the composition of Committees;
- (d) decisions not consistent with the Policy and Budgetary Framework, unless they have been taken as a matter of urgency by the Cabinet under the Procedure Rules set out in Part D of the Constitution;
- (e) approving the Treasury Management Annual Investment Strategy;
- (f) approving the Council's Prudential Indicators;
- (g) appointing the Leader of the Council;
- (h) appointing representatives to outside bodies where such appointments are reserved exclusively to the Council;
- (i) dealing with matters of governance, including adopting and amending the Code of Conduct for Members;
- (j) delegating functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (k) adopting an allowances scheme for Members;

- (l) changing the name of the District;
- (m) conferring the title of Honorary Alderman;
- (n) confirming the appointment of the Chief Executive and/or Head of Paid Service; and designating officers as the Monitoring Officer and the Chief Finance Officer;
- (o) appointing an Electoral Registration Officer, and a Returning Officer for local government elections;
- (p) determining any delegation to Officers that does not fall within the purview of the Cabinet;
- (q) approving the Pay Policy Statement;
- (q) approving the acquisition/disposal of land and property over £500,000;
- (r) any decision as to whether a casino is located in Cotswold District;
- (s) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (t) all local choice functions which the Council has decided should be undertaken by itself rather than the Cabinet;
- (u) all other matters which by law must be reserved to the Council.

Notes

- (i) **Policy Framework.** The policy framework comprises the following plans and strategies:-

- Corporate Strategy/Corporate Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Plans and strategies which together comprise the Development Plan (the Cotswold District Local Plan and the Council's input into the Gloucestershire County Structure Plan)
- Housing Strategy
- Licensing Policy Statements (Licensing Act 2003 and Gambling Act 2005)

(ii) **Budget.** The budget includes the allocation of financial resources to different services and projects; the Medium Term Financial Plan/Strategy; proposed contingency funds; setting the Council Tax; and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.

(iii) The Council will receive recommendations from the Cabinet in relation to Policy framework and budget matters.

(END)

CABINET

Role

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

Delegation

Cabinet functions may be delegated to individual Cabinet Members (Portfolio Holders) or Officers. The Scheme of Delegation to Officers shall be determined by the Cabinet and not by individual Portfolio Holders so as to ensure consistency. The Cabinet and individual Portfolio Holders shall not carry out functions which are included within the Scheme of Delegation to Officers unless an Officer chooses not to exercise the authority which has been given to him/her.

Specific

- (a) To approve all policies, plans and strategies outside the Policy Framework.
- (b) To approve Service Delivery Plans, including service charters.
- (c) To provide an overview of Service/Financial Performance.
- (d) To make decisions and/or recommendations to Council (as appropriate) on items within the Forward Plan.
- (e) To allocate revenue and/or capital elements of specific Government or other grants.
- (f) To approve external Service Level Agreements/Partnership Grant Agreements.

- (g) To approve the annual Commutation Adjustment.
- (h) To approve the overall criteria for grant awards.
- (i) To approve Disabled Facilities Grants.
- (j) To approve Rate Relief applications.
- (k) To approve the Year End Outturn.
- (l) To authorise the write-off of individual bad debts over £10,000.
- (m) To approve the acquisition/disposal of land and property between £250,000 and £500,000 in line with any acquisition/disposal strategy of the Council.
- (n) To accept the most economically effective tender for contracts over £100,000, where the tender sum is within approved financial amounts.

(END)

CABINET SPECIFICATIONS/PORTFOLIOS

LEADER OF THE COUNCIL

(AND CHAIRMAN OF THE CABINET)

1. The Leader is the Chair of the Council's Cabinet.

The Leader has a role in all the Council's affairs, though in practice most areas of operation are assigned to designated Portfolio Holders.

The Leader exercises responsibilities in the same way as other designated Portfolio Holders, within any designated remit.

2. TERMS OF REFERENCE

- (a) To Chair Cabinet Meetings.
- (b) To select and appoint the Cabinet Portfolio Holders, including a Deputy Leader.
- (c) To have responsibility for deciding the allocation of executive responsibilities set out in the Constitution.

- (d) To represent, and act as an ambassador for, the Council (including at meetings of the LGA and Leadership Gloucestershire).
- (e) To have lead responsibility for:-
- Policy formulation and review
 - The Council's work in respect of the Corporate Strategy/Corporate Plan, the Community Strategy, and key policy initiatives
 - Liaison with Ministers, and Members of the UK Parliament and/or the European Parliament.
- (f) To provide political leadership.
- (g) To represent the Council's views on matters of corporate or strategic policy and any other relevant matters.
- (h) To request or commission research and other studies (including the establishment of Working Groups) on any matters of policy or service provision.
- (i) To appoint or nominate the Council's representatives on outside bodies/organisations.

- (j) To take corporate membership of any appropriate body or organisation whose objectives are considered to be beneficial to the pursuit of the Council's own activities.
- (k) To approve the Forward Plan.
- (l) To submit to the Cabinet:-
- Recommendations in respect of strategic policy for the Council
 - Recommendations in respect of the Corporate Strategy/Corporate Plan, Community Strategy, and other key policy initiatives
- (m) To respond to consultation papers issued by the Government and outside organisations.
- (n) To lead on all policy and/or operational matters which have corporate implications and/or which cross the remits of the individual Cabinet Members.
- (o) To adjudicate on any matter which crosses the portfolio of more than one Cabinet Member and which cannot be resolved between them.

(p) To oversee continuous improvement within the Council.

(END)

DEPUTY LEADER OF THE COUNCIL

(VICE-CHAIR OF THE CABINET)

1. The Deputy Leader is the Vice-Chair of the Council's Cabinet.

In support of the Leader, the Deputy Leader has a role in all the Council's affairs, though in practice most areas of operation are assigned to designated Portfolio Holders.

In the absence or inability to act of the Leader, the Deputy Leader (i) chairs Cabinet meetings; and (ii) is entitled to take any action that the Leader would otherwise have been entitled to take.

The Deputy Leader also exercises responsibilities in the same way as other designated Portfolio Holders.

(END)

CABINET PORTFOLIO HOLDERS

Within the relevant portfolio area:-

- (a) To be responsible for all matters relating to the Council's affairs; to include liaising with other Members of the Cabinet, particularly where matters within the brief affect other aspects of Council business or affect the District.
- (b) To be responsible for ensuring appropriate consultation with partners and the community.
- (c) To implement approved capital projects, assisted as necessary by Project Boards.
- (d) To distribute grant aid in accordance with any conditions laid down by the Cabinet and/or the Leader, and in line with the Medium Term Financial Plan/Strategy.
- (e) In consultation with the Leader, to represent and act as an ambassador for the Council on relevant outside bodies/organisations.
- (f) To represent the Council's views on matters of corporate or strategic policy and any other matters.
- (g) To request or commission research and other studies on any matters of policy or service provision (in line with the Medium Term Financial Plan/Strategy).
- (h) To take up corporate membership of any appropriate body or organisation whose objectives are considered to be beneficial to the pursuit of the Council's own activities.
- (i) To work with other Cabinet Members on matters, as directed by the Leader.

- (j) To submit to the Cabinet:-
- proposals on how to agree annual budget allocations between services;
 - recommendations in respect of strategic policy;
 - annual estimates of expenditure and income;
 - proposals for capital projects.
- (k) To respond to consultation papers issued by the Government and outside organisations.
- (l) To determine fees and charges, in line with the Medium Term Financial Plan/Strategy.
- (m) To authorise the write-off of individual bad debts between £2,500 and £10,000.
- (n) To approve the acquisition/disposal of land and property up to £250,000 in line with any acquisition/disposal strategy of the Council.
- (o) To accept the most economically effective tender for contracts between £50,000 and £100,000, where the tender sum is within approved financial amounts.

(END)

PLANNING AND LICENSING COMMITTEE

1. To deal with regulatory matters required by, and flowing from, the Town and Country Planning and allied legislation.
2. To discharge all of the Council's regulatory licensing functions.
3. To make recommendations to the Cabinet on the budget for the Committee.
4. To determine the level of delegation to Officers.

(END)

OVERVIEW AND SCRUTINY COMMITTEE

To perform a broad based overview and scrutiny role across all areas of the Council, while discharging the functions conferred by the Local Government Act 2000 as amended and any associated regulations, including -

(i) Holding Decision-Makers to Account

- Review and scrutinise decisions made, or other action taken, by the Cabinet collectively or by individual Cabinet Members
- Where appropriate, exercise the right to call in, for reconsideration, decisions (not recommendations) made, but not yet implemented, by the Cabinet or individual Cabinet Members (N.B. the Committee can review the process by which recommendations are made)
- Review and scrutinise decisions made, or other action taken, by the Council and other Committees of the Council (N.B. This does not apply to decisions made on quasi-judicial matters but can apply to the process by which such decisions are made)
- Make reports or recommendations to the Council/the Cabinet/other Committees with respect to the discharge of any function(s) and/or on matters which affect the authority's area or the inhabitants of the area
- Monitor that actions required arising out of decisions made are implemented
- Evaluate the impact of decisions made

- Monitor conformity of decisions made with the policies and strategies of the Council.

(ii) Supporting the Development of Effective Policies that Benefit the Community

- Overview the development of policies and strategies within the Council
- Scrutinise the effectiveness of the Council's policies and strategies, in particular in achieving defined outcomes or objectives
- Ensure consistency and compatibility between the policies and strategies of the Council
- Produce special interest reports following topic reviews
- Assist in the development of new policies and strategies, or the review of existing ones
- Consider and comment on the draft Corporate/Community Strategy; and the draft Medium Term Financial Plan/Budget Strategy.

(iii) Contributing to the Continuous Improvement of Public Services

- Review and assess the Council's overall performance in relation to its policy objectives, performance targets and budgets and/or particular service areas, and make recommendations thereon to the Cabinet and/or the Council

- Review and assess the quality of service delivery, performance and efficiency across the Council, identify and promote best practice and make recommendations thereon to the Cabinet and/or the Council
- Produce special interest reports following topic reviews
- Consider and comment on service reviews/transformation.

(iv) Positively Influencing the Work of External Agencies

- Participate in county-wide joint scrutiny arrangements
- Review and scrutinise the performance of other public bodies in the area (inviting reports from them by requesting them to address the Committee and local people about their activities and performance)
- Liaise with other external organisations operating in the District, whether national, regional or local, to ensure that the interests of local people are protected or enhanced by collaborative working.

(v) General

- Act as the Council's Crime and Disorder Committee, having all the powers and functions, powers and duties conferred by Section 19 of the Crime and Justice Act 2006
- Give consideration to matters referred to the Committee through the Councillor Call for Action process
- Give consideration to matters referred to the Committee through the petitions process.

(END)

AUDIT COMMITTEE

To provide a broad based audit role across all areas of the Council, while promoting and ensuring effective internal control and independent assurance mechanisms, including -

(iv) Internal Audit

- Consideration and on-going monitoring of the operational and strategic audit plans
- Agreement of internal audit plans (ensuring that internal audit work is planned with due regard to risk, materiality and coverage)
- Review of internal audit performance
- Monitoring and review of actions required arising out of audit recommendations

(v) External Audit

- Consideration and review of external audit management letter, SAS.610 Report and other external audit documents
- Consideration and review of external audit reports
- Monitoring and review of actions required arising out of external audit recommendations

- Contributing to the forward work plans of the Council's external auditors (insofar as they relate to the Council)
- Review of all matters relating to external audit, including audit planning, action points and reports
- Ensuring effective liaison between external and internal audit

(vi) Risk Management

- Ensuring that an appropriate corporate risk management strategy is in place
- Ensuring that risk management procedures are satisfactorily carried out
- On-going monitoring and review of the risk management strategy

(vii) Annual Statement of Accounts

- Approval of the Council's Statement of Accounts
- Review of the annual report to Members from the external auditor
- Monitoring and review of actions required arising out of audit recommendations

- Ensuring that issues raised in previous financial years have been addressed

(viii) Corporate Governance Framework

- Approval of Code of Corporate Governance
- Ensuring systematic appraisal of the Council's control environment and framework of internal control to provide reasonable assurance of effective and efficient operations
- Ensuring that the highest standards of probity and public accountability are demonstrated
- Review of external reports and assessments
- Identification of areas for scrutiny

(END)

APPEALS COMMITTEE

To deal with appeals in respect of those licensing, registration and other functions of the Council where there are no rights of appeal through the Courts system.

(END)

SENIOR APPRAISAL AND REMUNERATION PANEL

- (a) To consider all relevant matters relating to the salaries and contractual terms of the Chief Executive/Head of Paid Service and Statutory Officers.
- (b) To approve terms for the retirement and/or redundancy of the Chief Executive and/or Head of Paid Service.
- (c) To conduct employee grievance and disciplinary appeals in respect of the Chief Executive and/or Head of Paid service in accordance with the Council's Grievance and Disciplinary Procedures (N.B. Panel members will require necessary training for this role).
- (d) To conduct appraisals of the Chief Executive and/or Head of Paid Service (N.B. For this purpose, the Leader of the Council, in consultation with the other Panel Members, will select an Appraisal Panel of four Members, to include one other Group Leader).

(END)

WORKING GROUPS

- (a) Working Groups may be formed by the Cabinet, Cabinet Portfolio Holders, or by Committees, for ad hoc, project-specific tasks. Their work should be scoped upon formation, and time-limited.
- (b) The business to be discussed at any meeting will be prescribed in advance.
- (c) Members of the Council will be invited to participate.
- (d) Other persons may be invited to attend at the discretion of the 'body' that formed the working group.
- (e) Working Groups are designed to facilitate discussion and the exchange of ideas on specific topics, which could include policy development.
- (f) Working Groups are not decision-making bodies.
- (g) Working Groups will be serviced by Officers so that there is a record of the issues considered.
- (h) The outcome of the Working Group's discussions will be circulated to body that formed the working group.
- (i) Working Groups may be formed to consider a cross-cutting issue, or to assist a scrutiny inquiry.

(END)

ROLES AND RESPONSIBILITIES OF ALL COUNCILLORS

Councillors will participate constructively in the good government of the District in the interest of all residents. They will contribute actively to the formation and scrutiny of the Council's policies, budget, strategies, plans and service delivery.

Councillors will deal with the constituents' enquiries and representations, and will effectively represent the interests of the Ward for which they were elected and views of constituents.

Councillors may also be required to represent the Council on an outside body, such as a governing body or charitable trust.

TERMS OF REFERENCE

- (a) To fulfil the statutory and locally determined requirements of an elected Member of the Council.
- (b) To participate effectively as a Member of any working group to which the Councillor is appointed.
- (c) To participate in the activities of an outside body to which the Councillor is appointed.
- (d) To participate, as appointed, in the scrutiny of the services and policies of the Council and their effectiveness in meeting the strategic objectives of the Council and the needs of its residents.
- (e) To participate in Working Groups.

- (f) To represent the Council to the community and the community to the Council and to other relevant bodies. To provide a voice and advice for local individuals and interest groups in their dealings with the Council and, where appropriate, to advise them on the pursuit of complaints.
- (g) To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop good working relationships with relevant Officers of the Council.
- (h) To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the Community's well-being and identity, including developing and maintaining good working relationships local Town and Parish Councils and with local County Councillors.
- (i) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
- (j) To keep up to date with all developments affecting the District and the Council including Government policies and prospective legislation.

(END)

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PROPOSED Part C

Responsibility for Functions, Scheme of Delegation, Key Decisions and Forward Plan

3A Principles of Decision Making

3A1. All decisions will be made in line with the Budget and Policy Framework (Part D4) and in accordance with the following principles:

- Consideration of all relevant considerations and ignoring those which are irrelevant
- compliance with finance, contract, and all other procedure rules
- due consultation and proper advice taken and alternative options considered before decisions are reached
- impartiality and an absence of bias or pre-determination
- any interests are properly declared
- decisions are properly recorded and published
- decisions are proportionate to the desired outcome
- respect for human rights, equality, and climate change impacts
- approach decision making on a transparent and open basis and decisions will be taken in a public forum wherever possible. clarity of aims and desired outcomes
- due consideration of all available options
- reasons are given for decisions

3A2. The Council has arranged for some of its functions to be carried out by officers employed by Publica Group (Support)Limited, which is a company operated by the Council in partnership with Forest of Dean District Council, Cheltenham Borough Council and West Oxfordshire District Council. Where it is necessary for functions carried out by Publica to be delegated, these will be to officers who have a joint contract of employment with the Council. A “joint contract” is a contract of employment for Officers employed to undertake functions by both Publica and Cotswold District Council.

3A.3 Introduction

The Council consists of several distinct elements which are allocated certain functions by statute. The most important elements are:

- Council (all councillors)
- Committees (undertaking specific functions delegated by Council / specified in statute)
- The Executive (Leader and Cabinet)

These are the primary decision-making bodies within the Council, and they exercise different powers and functions. To assist the efficient working of the Council these bodies have delegated some of their functions to other parts of the Council including Sub-Committees and Officers.

3A.4 This part of the Constitution describes the way in which the Council's powers and functions are distributed amongst the various parts of the Council and who may lawfully exercise those powers within any limits or in accordance with any conditions.

3A.5 The law provides a framework under which functions:

- must not be the responsibility of the Executive – Non-Executive or Council Functions
- may or may not be the responsibility of the Executive – Local Choice Functions
- must be the responsibility of the Executive – Executive or Cabinet functions

3A.6 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions) Delegation of non-Executive Functions is set out in Part 3B 'Council Functions', Part 3C 'Committee Functions' and Part 3D 'Officer Non-Executive Functions'.

3A.7 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Member of the Executive (Cabinet Member) or an Officer (exercising Executive Functions). Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or Officer of another authority. The delegation of Executive Functions is set out in Part 3E 'Executive Functions' below.

3A.8 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.

Key Decisions and Forward Plan

3A9. Key Decisions

A Key Decision is an Executive decision that is likely to:

1. result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or

2. be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the area of the authority.
- 3A10. The Council has decided that something is financially significant for these purposes if it is an Executive decision which requires a budget expenditure of £150,000 or more or generates savings of £150,000 or more.
- 3A11. Key Decisions shall only be taken by Cabinet, unless such a decision has been specifically delegated by the Leader to a Cabinet Member or an Officer or unless the Leader, Chief Executive (or, in his / her absence or where he / she is unable to act, the Deputy Chief Executive) is making an urgent decision (as set out in Paragraph 37 of the Council Procedure Rules).
- 3A12. The Chief Executive will decide whether a decision will have a significant impact on two or more wards.
- 3A13. A decision-taker may only make a Key Decision in accordance with the requirements of the Access to Information rules.
- 3A14. It is for the Chief Executive to decide which decisions are Key, subject to guidance from the Monitoring Officer who may require that a decision be treated as a Key Decision.
- 3A15. In considering whether a decision is likely to be 'significant', the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the council to a significant number of people living or working in the locality affected. The following should be considered:
- the effect on businesses and communities
 - the expectation of the public and councillors as to whether the decision should be taken by the Cabinet
 - the anticipated interest of the public and of councillors
 - the effect on other council services and functions

3A16. Forward Plan

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 say that the Council must publish a notice containing information about any key executive decision which will be taken. This must be published 28 clear days before the date of the decision and must contain information about any executive decision which will be taken by the Cabinet or an individual member of Cabinet in private session. The Forward Plan enables elected members, members of the public and the Scrutiny committees to consider which items they wish to examine and consider in good time before they are determined.

3A17. The plan includes details of:

- items to be debated by the Cabinet which relate to policy or budget formulation
- items which will be subject to a recommendation to Council
- other matters to be considered by the Cabinet (when known)
- the names and responsibilities of current members of the Cabinet

3A18. The Forward Plan is updated and published as a minimum monthly and covers all decisions proposed to be made by the Council, Cabinet, individual Cabinet members and Key Decisions made by officers within the following four months. Not all decisions will be known four months in advance and so advance notice of decisions will be included as soon as they become known

3A19. There is also a requirement to publish details at least 28 clear days in advance of any meeting if there is an intention to consider in private a Key Decision or any other executive decision - even if not a Key Decision. Both these requirements are achieved through the Forward Plan

3A20. Sometimes, it is impracticable to include the intention to make a Key Decision on the Forward Plan but there is still time to give advance public notice. Such a decision may still be made in accordance with the general exception procedure if three conditions are fulfilled:

- The Monitoring Officer must inform (by written notice) the Chair of the Overview & Scrutiny Committee.
- A copy of such notice must be placed on the website and made available for public inspection.
- Five clear working days must have elapsed, not counting the day upon which the copy notice was given.

3A21. As soon as practicable, the Monitoring Officer will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear on the Forward Plan and to publish that notice on the website.

3A22. Sometimes even reduced public notice cannot be given and decisions need to be made urgently outside the usual process, e.g., reducing the pre-decision notification time. Urgency in these cases is defined as cases where the Council will be significantly disadvantaged by a delay. Where these provisions are used, clear explanations must be made in the written reports.

3A23. In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear working days' notice of a Key Decision has to be given, or if an item has not appeared on the Forward Plan and a decision needs to be taken before the next edition of the Forward Plan is published, then the agreement of the Chair of the Overview & Scrutiny Committee (or, in their absence, the Vice-Chair of Overview & Scrutiny, or in their absence, the Chair of the Council) that the making of the decision is urgent and

cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Forward Plan and why it missed the last edition of the Forward Plan.

3A24. In either case, the Chair of Overview & Scrutiny Committee must report on such consultations/agreements at the next meeting of Overview & Scrutiny committee.

3A25. Call-in is intended to be used in exceptional circumstances for decisions believed to be contrary to the authority's decision making principles. Call-In may be abridged or disappplied by a decision of the Cabinet or Cabinet member, if to do so is necessary to safeguard the interests of the Council or of the public. In any such case, professional advice will be taken from the relevant officer, and the reasons for the disapplication will be discussed with the Chair (or in their absence the Vice-Chair) of the Overview & Scrutiny Committee and the reasons for disapplying. Call-In will be stated at the top of the report and further explained – with the views of the Chair of Overview & Scrutiny committee – in the body of the report.

3A26. In such cases, whilst the actual decision cannot be Called-In, the Overview & Scrutiny committee may ask to consider the circumstances and provide recommendations if they so wish.

3A27. Following the taking of an urgent decision, the Leader will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why it was treated as urgent.

3B Council Functions

The functions which may only be exercisable by Council are set out in the table below:

| Council Functions | |
|--------------------------|--|
| 1 | Determine which plans, strategies and policies shall comprise the Council's Policy Framework and from time to time approve, adopt and amend those plans, strategies and policies. |
| 2 | Determine and amend the Council's Budget. |
| 3 | Approve a departure from the approved Policy Framework and / or the approved Budget. |
| 4 | Appoint and remove the Leader. |
| 5 | Change the executive arrangements of the Council. |
| 6 | Establish, abolish, and decide the terms of reference and the composition of Council, Committees and make appointments including co-opted members to them and other non-Executive bodies. |
| 7 | Make and amend Procedural Rules, Financial Rules and Contract Rules. |
| 8 | Change the name of the District or a parish. |
| 9 | Elect a Council Chair and Vice-Chair |
| 10 | Promote or oppose local or personal bills. |
| 11 | Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts. |
| 12 | Appoint an Electoral Registration Officer and Returning Officer for local government elections. |
| 13 | Make, amend, revoke, or re-enact by-laws. |
| 14 | Fill Council or Parish Council vacancies in the event of insufficient nominations. |
| 15 | Change ordinary year of election of parish councillors. |
| 16 | Confirm the appointment of the Head of Paid Service (Chief Executive) and designate officers as the Monitoring Officer and the S151 Officer. |
| 17 | Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council. |
| 18 | Establish and abolish Joint Committees (in respect of non-Executive functions). |
| 19 | Approve the Pay Policy Statement. |
| 20 | In addition to annual approval of appointments to outside bodies, to appoint or nominate individuals to outside bodies in respect of non-Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken. |
| 21 | Adopt or amend the Code of Members' Conduct and the Arrangements for investigating allegations |
| 22 | Take decisions and/or give advice on matters brought to Council by the Leader, Cabinet, Officers and other bodies or persons. |
| 23 | Receive and consider statutory reports from the Head of Paid Service, |

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| | the Section 151 Officer, and the Monitoring Officer. |
| 24 | Authorise virements from the Council's approved Annual Revenue and Capital Budgets in excess of £150,000. |
| 25 | Certain functions of local authorities are classified as "Local Choice" functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. The Council can decide which of these decisions should be taken by the Full Council and which should be taken by the Cabinet. |
| 26 | Approval and allocation of the Council's annual borrowing limit |
| 27 | The power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000 |
| 28 | Any resolution for whole Council elections |
| 29 | Any change in the name of electoral areas |
| 30 | Any decision as to whether a casino should be in the District |
| 31 | To undertake the function of Trustee in respect of all Trusts held by the Council (where applicable) |
| 32 | Make changes to the Constitution (other than minor amendments which are delegated to the Monitoring Officer or any protocol which falls within the Terms of Reference of any Committee) |
| 33 | Delegating functions to other local authorities and deciding whether to accept such a delegation from another authority |
| 34 | Set the Council Tax |
| 35 | Approving the acquisition or disposal of land or property outside of the Council's Recovery Investment Strategy over £1,000,000. |
| 36 | Approving the acquisition or disposal of land and property made under the Council's Recovery Investment Strategy over £3,000,000 |
| 37 | All other matters which by law must be reserved to the Council |

3B2. Policy Framework

The policy framework comprises the following plans and strategies:

- Corporate Strategy/Corporate Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Plans and strategies which together comprise the Development Plan (the Cotswold District Local Plan and the Council's input into the Gloucestershire County Structure Plan)
- Housing Strategy
- Pay Policy
- Licensing Policy Statements (Licensing Act 2003 and Gambling Act 2005)
- Budget, which includes:
 - The Medium-Term Financial Strategy
 - Capital Programme
 - Setting the Council Tax
 - Decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits
 - The Capital, Treasury Management and Investment Strategies

3C Committee Functions

3C.1 Council has established the Committees set out in the table below to discharge certain functions but retains the right to a concurrent and overriding exercise of all functions in the table below. Unless otherwise required by law, a Committee or Sub-Committee may determine not to exercise a function delegated to it and refer that function upwards for determination by Council or the parent Committee

3C.2 The Council must have at least one Overview and Scrutiny Committee.

3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Table below include such Sub-Committees. (If applicable)

Functions of Committees

| Overview and Scrutiny | |
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| To perform a broad-based overview and scrutiny role across all areas of the Council, while discharging the functions conferred by the Local Government Act 2000 as amended and any associated regulations, including: | |
| 1 | Co-ordinate, champion, and lead on the scrutiny of Council and Executive decisions. Ensure consistency and compatibility between the policies and strategies of the Council contributing to the Continuous Improvement of Public Services |
| 2 | Have all of the functions, powers and duties conferred by Section 21 of the Local Government Act 2000 (as amended) |
| 3 | Determine the allocation of work in the event that the scope of the subject matter of a scrutiny study or investigation overlaps the role of more than one Sub-Committee or Task and Finish Group |
| 4 | Review the operation of the scrutiny process and work programmes of the Overview & Scrutiny Sub Committees and Task and Finish Groups and inform and advise Council in relation to priorities and the allocation of resources |
| 5 | Oversee and review the resources, support, training, and development of Overview & Scrutiny Members |
| 6 | Develop a positive “critical friend” approach to the role of scrutiny of the Council and Community issues and Review and scrutinise decisions made, or other action taken, by the Cabinet collectively or by individual Cabinet Members |

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| 7 | Provide and co-ordinate the input to an annual report to Full Council on such issues or topics as the Committee sees fit and Produce special interest reports following topic reviews |
| 8 | Consider the management of matters called in for review under the Overview and Scrutiny Rules |
| 9 | Consider matters referred to it by the Councillors' Call for Action |
| 10 | Review and scrutinise the work of the Cabinet and consider, and comment, on the Corporate Plan, Community Strategy; and the draft Medium Term Financial Strategy, and annual Budget. |
| 11 | Review and scrutinise the content of the Forward Plan and monitor that actions required arising out of decisions made are implemented and evaluate the impact of decisions made |
| 12 | Review and scrutinise the decisions and policies of the Council (N.B. This does not apply to decisions made on quasi-judicial matters but can apply to the process by which such decisions are made) |
| 13 | Consider any matters which affect the authority, the District, or its residents Liaise with other external organisations operating in the District, whether national, regional or local, to ensure that the interests of local people are protected or enhanced by collaborative working. |
| 14 | Overview the development of policies and strategies within the Council and scrutinise the effectiveness of the Council's policies and strategies, in particular in achieving defined outcomes or objectives. Assist in the development of new policies and strategies, or the review of existing ones. |
| 15 | Review and assess the Council's overall performance in relation to its policy objectives, performance targets and budgets and/or particular service areas, and make recommendations thereon to the Cabinet and/or the Council |
| 16 | Review and assess the quality of service delivery, performance and efficiency across the Council, identify and promote best practice and make recommendations thereon to the Cabinet and/or the Council |
| 17 | Consider and comment on service reviews/transformation |
| 18 | Participate in county-wide joint scrutiny arrangements. Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working |
| 19 | Review and scrutinise the performance of other public bodies in the area (inviting reports from them by requesting them to address the Committee and |

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| | local people about their activities and performance) |
| 20 | Act as the Council's Crime and Disorder Committee, having all the powers and functions, powers and duties conferred by Section 19 of the Crime and Justice Act 2006 |
| | Powers |
| 21 | <p>The Committee has the right to require the attendance of any Council Officers and/or Members in order to respond directly to any issue under consideration.</p> <p>To review any issues referred to it by the Chief Executive, other Statutory Officer, or any other Council body; and,</p> <p>The power to call expert witnesses from outside the Council to give advice on matters under review or discussion.</p> |
| Planning & Licensing Committee | |
| 1 | To determine planning applications, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy. |
| 2 | To determine matters relating to planning as a Local Planning Authority excluding strategic planning matters such as the preparation, adoption and review of the Council's statutory Local Development Plan and representation of the Local Planning Authority's view to other bodies as appropriate on strategic planning matters. |
| 3 | Without prejudice to the above roles and the Council's Scheme of Delegation, the Planning Committee shall be responsible for those matters set out in Part A (Functions relating to Town and Country Planning and Development Control) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. |
| 4 | <p>To determine:</p> <ul style="list-style-type: none"> • Applications submitted by or on behalf of the District Council, or for development on Council owned land or where the Council has a direct interest, except where no objections are received or any application required in connection with flood prevention/alleviation schemes. For purposes of clarity, once the principle of development has been established by Committee, subsequent applications to discharge conditions or for minor variations may be determined in accordance with the Non-Executive Officer Scheme of Delegation • Applications submitted by a serving Member or Officer of the Council or a consultant employed by the Council, or in which they have a beneficial interest (i.e. they own the land or are a prospective purchaser), or submitted by an immediate relative to the above; with the exception of applications made by non-Planning staff (excluding those in politically |

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| | restricted posts) for householder development. |
| 5 | <ul style="list-style-type: none"> • Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved or adopted by the Council for Development Management purposes. • Applications which involve an agreement under S.106 of the Town & Country Planning Act 1990, or the proposed variation or discharge of a Section 106 deed, that materially differs from the Council's standard models or departs from the reasons for the original imposition of the obligation • Applications which are accompanied by an Environmental Statement. • Applications for the felling of a tree(s) protected by a Tree Preservation Order (except where exempted by the Act) and not associated with an application for planning permission, where there are objections received |
| 6 | To make recommendations to the Cabinet on the budget for the Committee. |
| 7 | To make recommendations to Full Council in terms of the level of delegation to Officers. |
| 8 | <p>To undertake all matters in relation to the statutory licensing and registration functions of the Council (save to the extent that such responsibility has been delegated to another sub-committee of this Committee or Officer by the Council) such duties to include liquor, entertainment and late night refreshment licensing and the Gambling Act 2005. The Committee's role includes the formulation and approval of policy guidelines with the exception of the following which are dealt with by the Council:</p> <ul style="list-style-type: none"> • Licensing Policy Statement - Licensing Act 2003 • Gambling Policy - Statement of Principles - Gambling Act 2005. |
| 9 | To hear and determine licence applications that are contentious and/or where objections have been lodged by statutory consultees, residents, other third parties or where officers have reservations about the appropriateness of an application or the suitability of an applicant. |
| 10 | Without prejudice to the above roles and the Council's Scheme of Delegation the Planning & Licensing Committee shall be responsible for those matters set out in Parts B and C (Licensing and Registration functions) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the Licensing Act 2003 and the Gambling Act 2005. |
| 11 | The Planning & Licensing Committee shall be empowered to set up a sub-committee or sub-committees to discharge functions and act in accordance with powers delegated by the Committee. In the context of the Committee's powers under the Gambling Act 2005, sub delegation may extend to the permitted discharge of functions by an officer. |
| 12 | To receive reports and determine policy in relation to street trading. |
| 13 | To approve policy and to determine fees in relation to scrap metal dealer licensing. |

Licensing Sub Committee (Licensing Act 2003)

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| 1 | To determine applications where representations are made, or to determine a review application. |
| 2 | To review a personal licence. |

Licensing Sub Committee (Taxi, Private Hire and Street Trading)

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| 1 | To determine applications where relevant offences feature on the Disclosure Barring Service (DBS) check |
| 2 | To consider representations as made or to review a licence. |

Audit Committee

Governance, risk and control

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| 1 | <p>Monitor the adequacy and effectiveness of the Council's governance arrangements including:</p> <ul style="list-style-type: none"> • Monitoring the effectiveness of the Chief Finance Officer's responsibility for ensuring an adequate internal control environment; • To approve the Risk Management Policy Statement and monitor its operation; • Monitoring the arrangements for the identification, monitoring and control of strategic and operational risk within the Council; • Monitoring the adequacy and effectiveness of the arrangements in place for combating fraud and corruption; • Providing an annual report to Council that its systems of governance are operating effectively, which includes the Committee's performance in relation to the terms of reference; • Reviewing and approving the annual Statement of Accounts, Annual Governance Statement and its associated assurance framework; • Considering the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements; • Ensuring that Internal Audit has the right of independent access to the Committee and its Chair; • Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice; • Considering and advising changes to the Council's Constitution in respect of Contract Standing Orders and Financial Regulations; • Formulating and keeping under review a Code of Conduct to promote high ethical standards amongst Officers and doing anything that is |
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| | <p>considered to promote and maintain high standards of conduct by Officers;</p> <ul style="list-style-type: none"> • Formulating and keeping under review the Council's 'whistle-blowing' policy; • Formulating and keeping under review the Council's arrangements for handling complaints and investigations by the Local Government Ombudsman, and; • Monitor the adequacy and effectiveness of cyber security arrangements (the protection of information systems, hardware, software and associated infrastructure, the data on them, and the services they provide, from unauthorised access, harm or misuse). This includes harm caused intentionally by the operator of the system, or accidentally, as a result of failing to follow security procedures. |
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Ethics and Behaviours

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| 2 | <p>To promote, maintain and assist the achievement of high standards of conduct by Councillors and co-opted members in accordance with the Council's Code of Conduct for Members.</p> <ul style="list-style-type: none"> • To monitor the operation of the Code of Conduct for Members; • To advise the Council on any amendment or revision of the Code; • To secure adequate and appropriate training of Councillors and co-opted Members on the Code of Conduct for Members; • To give general guidance and advice to Councillors on Members' interests and keep under review the Register of Members' Interests maintained by the Monitoring Officer; and • To give general guidance and advice to Councillors and employees on gifts and hospitality. |
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External Audit

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| 3 | <p>Monitor the adequacy and effectiveness of the Council's external audit service and respond to its findings. Specifically:</p> <ul style="list-style-type: none"> • Considering the appointment, nature and scope of the external audit of the Council's services and functions; • Receiving and considering all external audit reports including the annual plan, annual audit letter and governance report; and • Monitoring management's response to the external auditor's findings and the implementation of external audit recommendations. |
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Internal Audit

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| 4 | <p>Monitor the adequacy and effectiveness of the Internal Audit service. Specifically:</p> <ul style="list-style-type: none"> • Approving the Internal Audit Charter; • Approving the annual risk based Internal Audit Plan; • Receiving communications from the Chief Internal Auditor on the internal |
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| | <p>audit activity's performance relative to its plan and other matters, including the annual report and opinion;</p> <ul style="list-style-type: none"> • Receiving and considering major Internal Audit findings and recommendations; • Monitoring management's response to Internal Audit findings and the implementation of the recommendations; • Making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope and resource limitations; • Agreeing the scope and form of the external assessment as part of the quality assurance and improvement plan; • Receiving the results of internal and external assessments of the quality assurance and improvement programme, including areas of non-conformance with professional standards; and • Approving significant consulting services not already included in the audit plan, prior to acceptance of the engagement, if this materially impacts on core assurance activity. |
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Treasury Management

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| 5 | <p>To consider reports on the Council's Treasury Management function including:</p> <ul style="list-style-type: none"> • Recommending the Treasury Management Strategy to Council • Recommending the half-year and outturn Treasury Management performance reports to Council • Receiving updates from the Council's Treasury Management advisor and providing guidance to the S.151 Officer in exercising delegations under the Treasury Management Strategy |
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Powers

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| 6 | <ul style="list-style-type: none"> • The Committee has the right to require the attendance of any Council officers and/or members in order to respond directly to any issue under consideration; • To review any issues referred to it by the Chief Executive, other statutory officer or any Council body; and • The power to call expert witnesses from outside the Council to give advice on matters under review or discussion. |
|----------|--|

Hearings Panel

| | |
|----------|---|
| 1 | <p>To establish a Hearings Panel to make recommendations to Council, in conjunction with the Independent Person, to hear allegations that Members have failed to comply with the Member's Code of Conduct. Specifically to:</p> <ul style="list-style-type: none"> • Assess and review allegations of Member misconduct; and • Determine allegations of Member misconduct. • Agree sanctions is appropriate. |
|----------|---|

| Performance & Appointments Committee (Statutory Officers) | |
|--|---|
| 1 | To recommend the appointment of the Chief Executive, Deputy Chief Executive, (Section 151 Officer if not the Deputy Chief Executive) and Monitoring Officer to Council. |
| 2 | To consider all relevant matters relating to the salaries and contractual terms of the Chief Executive/Head of Paid Service and Statutory Officers. |
| 3 | To approve terms for the retirement of the Chief Executive (Head of Paid Service). |
| 4 | To conduct grievance and disciplinary matters in respect of the Statutory Officers in accordance with the Council or statutory procedures (Members must be trained to carry out this role). |
| 5 | To suspend the Chief Executive and Statutory Officers whilst an investigation takes place into alleged misconduct. |
| 6 | To conduct appraisals of the Chief Executive (N.B. For this purpose, the Leader of the Council, in consultation with the other Panel Members, will select an Appraisal Panel of four Members, to include one other Group Leader). |
| 7 | To manage and consider any disciplinary and/or capability and any grievance matters arising in relation to the Statutory Officers |
| 8 | To carry out the function of an Investigating & Disciplinary Committee as set out in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers. |
| 9 | <p>In respect of Statutory Officers to:</p> <ul style="list-style-type: none"> (a) decide whether the issues requires no formal action or (b) whether the issue should be referred to an Independent Person (c) be responsible for the appointment and terms of reference of the Independent Person (d) receive and consider the report of the Independent Person (e) hold a capability or disciplinary hearing <p>Following receipt of any Independent Person report, to determine a course of action (up to and including dismissal) within the Council's powers under law and in accordance with the Council's procedures including the procedures set out in the Officer Employment Procedure Rules. Council must approve any dismissal of Statutory Officers.</p> |
| Appeals Committee | |
| 1 | To deal with appeals in respect of those licensing, registration and other functions of the Council where there are no rights of appeal through the Court system. |

Working Groups

| | |
|---|--|
| 1 | Working Groups may be formed by the Cabinet, Cabinet Members, or by Committees, for ad hoc, project-specific tasks. Their work should be scoped upon formation, and time-limited and business to be discussed at any meeting will be prescribed in advance by terms of reference |
| 2 | Whilst Members of the Council will be invited to participate, other persons may be invited to attend at the discretion of the 'body' that formed the working group. |
| 3 | Working Groups are designed to facilitate discussion and the exchange of ideas on specific topics, which could include policy development but are not decision-making bodies. |
| 4 | Working Groups will be serviced by subject matter expert officers and a record will be kept of the issues considered and the outcome of the Group's discussions will be circulated to body that formed the working group. |
| 5 | Working Groups may be formed to consider a cross-cutting issue, or to assist a scrutiny inquiry. |

Part 3E – Executive or Cabinet Functions

- 3E1. The Council operates a Leader and Cabinet form of Executive and the Leader of the Council specifies how the functions of the Executive (known as ‘Executive Functions’) will be carried out. All functions of the Council that are not reserved by law as Non-Executive (see Part 3C above), are Executive functions. Except where the law otherwise provides, it is at the Leader’s discretion to determine how decision-making in relation to Executive functions will be exercised.
- 3E2. The Leader may discharge any Executive functions directly or may arrange for the discharge of those functions by:
- the Cabinet
 - a Cabinet Committee
 - an individual member of the Cabinet (Cabinet Member)
 - an officer of the Council
 - another local authority
 - jointly with another local authority through a joint committee or Officer
- 3E3. The Cabinet undertakes all Executive functions including:
- (a) proposing plans and strategies, including the overall Budget, the Policy Framework, changes to the Constitution and arrangements for the good governance of the authority, to Council to approve and adopt
 - (b) publishing in the Forward Plan all decisions by Cabinet, individual Cabinet members and Key Decisions made by officers
 - (c) establishing committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues
 - (d) representing the Council locally, nationally, and international
 - (e) attending meetings of the Overview & Scrutiny committee and any Task and Finish Groups when required to do so.
 - (f) agreeing the acquisition and disposal of property (within limits set out in the Financial Rules and the Acquisition and Disposal Policy) and the management of the Council’s landholdings
 - (g) proposing acquisition or disposal of land and property to Council where the financial implications exceed the threshold delegated to the Cabinet
 - (h) exercising the powers and duties of the Council in respect of leisure, museums, consumer protection and environmental health
 - (i) acting as waste collection authority
 - (j) agreeing protocols for consultation and relations with outside bodies
- 3E4. As a rule, matters of corporate policy and high-level strategic matters will be determined by the Cabinet collectively; strategic matters relating to Cabinet member portfolios will be determined by individual Cabinet members; and operational service matters will be determined by the Chief Executive and / or Deputy Chief Executive in consultation with the Leader and / or relevant

Cabinet Member, where appropriate. Where there is doubt, the Leader will be asked to decide.

3E5. Delegations

The Leader has exercised the power of delegation in the manner set out below in Table 4 'General Scheme of Delegation of Executive Functions' and Table 5 'Additional Delegation of Executive Functions to Officers'. In Table 4 reference to 'Cabinet Member' means a Cabinet Member acting in portfolio as set out in Appendix A and reference to 'Officer' means Chief Executive, Deputy Chief Executive, or designated senior Publica employee, when acting as an employee of Cotswold District Council.

3E6. The Leader has directed that the Executive Functions delegated to Cabinet Members as set out in Table 5 shall not be sub-delegated to Officers without prior consent.

3E.7 Each person or body to whom an Executive Function is delegated shall be empowered to take any step for the purposes of or in connection with the discharge of the Function and may do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.

3E8. The Leader may amend these delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer (in this case the Chief Executive or in their absence or where they are unable to act the Deputy Chief Executive) setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.

3E9. Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.

3E10. In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.

3E11. Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

3E12. Officer Delegations - Special Provisions

The Chief Executive and Deputy Chief Executive are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3E to Officers of suitable experience and seniority.

3E13. An Officer does not have delegated authority to take a Key Decision unless

- specifically authorised to do so by the Leader or
- the Chief Executive
- or, in their absence or where they are unable to act, the Deputy Chief Executive is taking an urgent decision as set out in

this Part 3E.

3E14. The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.

3E15. The Leader may direct in any case that a power delegated to an Officer in respect of an Executive Function shall not be exercised by an Officer and that the Function in question shall instead be exercised by the Leader or Cabinet. Such direction must be exercised in consultation with the Chief Executive or Deputy Chief Executive.

3E16. A Cabinet Member may in respect of an Executive Function which falls within their portfolio direct in any case that a delegated power to an Officer shall not be exercised by an Officer and shall instead be exercised by them as Cabinet Member. Such direction must be exercised in consultation with the Chief Executive or Deputy Chief Executive and the Leader.

3E17. The Chief Executive or Deputy Chief Executive may at their discretion and in consultation with the Leader or Cabinet Member refer any matter to the Leader or Cabinet for decision.

3E18. Officers have responsibility to report to the Leader or Cabinet Member matters that are of political or strategic significance related to any function they are exercising where it is proper for them to be aware of the position.

3E19. **Cabinet Member Portfolios**

Cabinet members have personal responsibility for decisions taken in relation to and discharging those Executive functions within their remit (portfolio of responsibility) as determined by the Leader.

As a general proposition, Cabinet members are responsible for:

- leading on developing Council policy and make recommendations to the Cabinet
- providing guidance to the Cabinet on running activities
- giving guidance to the Cabinet on budget priorities
- monitoring performance and ensure policy is delivered
- leading on improving Council services
- making sure that activities meet the Council's overall vision, core values and guiding principles
- contributing to debate and decision-making
- working with councillors who are not members of the Cabinet, including members of Overview & Scrutiny Committee, members of the Opposition and Officers to make sure that the overview and scrutiny process works correctly
- appearing before and responding to Overview and Scrutiny Committee reports
- representing the Council at a national and local level
- Each Cabinet Member is the spokesperson for the policy area or 'portfolio' they are responsible for

3E20. If a Cabinet Member wishes to make a decision contrary to the advice of the relevant Officer, they must refer the issue to the

Cabinet for a decision. If a Cabinet Member considers that any decision they are being asked to take is likely to be particularly sensitive or controversial, they have the discretion to refer the decision to the Cabinet for consideration.

3E21. A description of the Cabinet functions that are exercisable by individual Cabinet members is here (insert link to Cabinet poster).

Part 3E(a) Tables of Executive Functions

Table 4

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|---|--------|----------------|---------|-----------------------|--|
| Policy & Strategy | | | | | |
| Recommend to Council all plans strategies and policies which comprise the Policy Framework (Part 2 article 4) and initiate consultation on such plans policies and strategies | | | ✓ | | |
| Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution | | | ✓ | | |
| Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them | ✓ | ✓ | | | |
| Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework | ✓ | | ✓ | | CX |
| Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval | ✓ | ✓ | | | CX/DCX |
| Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval | | | ✓ | | |
| Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions) | | ✓ | | | |
| Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions) | | | | | CX/DCX |
| Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues | ✓ | ✓ | | | |
| Respond to all other consultations | | | | | CX/DCX |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|---|---------------|-----------------------|----------------|------------------------------|---|
| Implement the Council's Risk Management Policy & Strategy | ✓ | ✓ | ✓ | | CX/DCX |
| Finance | | | | | |
| Prepare and consult on the Council's Budget and recommend to Council for approval | | | ✓ | | |
| Receive and consider quarterly budget monitoring reports | | | ✓ | | |
| Take urgent decisions that are contrary to or not wholly in accordance with the Budget | ✓ | | ✓ | | CX/DCX |
| Make bid for funding with resource implications exceeding £150,000 | | | ✓ | | |
| Make bid for funding with resource implications exceeding £100,000 and not exceeding £150,000 | ✓ | ✓ | | | |
| Make bid for funding with resource implications not exceeding £100,000 | | | | | CX/DCX |
| Agree a contribution to reserves above the level set in the Budget up to £150,000 | | | ✓ | | |
| Propose to Council a contribution to reserves above the level set in the Budget over £150,000 | | | ✓ | | |
| Agree use of charging and trading powers | | ✓ | ✓ | | |
| | | | | | |
| Set fees and charges | | ✓ | ✓ | | |
| Agree increase in fees and charges by more than inflation | | | ✓ | | |
| Agree increase in fees and charges in line with inflation | | ✓ | | | CX/DCX |
| Service Delivery | | | | | |
| Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio | | ✓ | | | |
| Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible | | | | | CX/DCX |
| Undertake internal changes and improvement of the Council's services | | | | | CX |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|--|---------------|-----------------------|----------------|------------------------------|---|
| Commissioning and Contracts | | | | | |
| Approve the means by which the Council's services will be provided including through a delegation to another local authority, local authority company, community interest company, private organisation, trust or public/private partnership | | | ✓ | | |
| Arrange for any Executive Function to be undertaken by another local authority | | | ✓ | | |
| Arrange for any Executive Function to be exercised jointly with one or more local authorities through joint arrangements | | | ✓ | | |
| Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office | ✓ | | | | |
| Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office | ✓ | | | | |
| Represent (or arrange for a Member or Officer to represent) the Council as shareholder or member in a company in which the Council holds an interest | ✓ | | | | |
| Monitor the performance of contracts and service level agreements in respect of all non-internally provided services | | | | | CX/DCX |
| Accept tenders within budget and exceeding £250,000 | | ✓ | | | |
| Accept tenders and quotations within budget and not exceeding £250,000 | | | | | CX/DCX |
| Approve waiver to Contract Rules where the value is in excess of £100,000 | | | ✓ | | |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|---|---------------|-----------------------|----------------|------------------------------|---|
| Approve waiver to Contract Rules where the value does not exceed £100,000 pursuant to Contract Rule 6.2 | | | | | DCX/Monitoring Officer |
| Approve waiver from Contract Rules where the value exceeds £100,000 and an urgent decision is required pursuant to Contract Rule 6.2.1 | | | | | CX |
| Constitution & Democratic Process | | | | | |
| Make Key Decision | | ✓ | ✓ | | |
| Make urgent Key Decision | ✓ | | ✓ | | CX |
| Respond to call-in of a decision | ✓ | ✓ | ✓ | | CX/DCX |
| Respond to petition to Council | | ✓ | | | |
| Appoint and remove Cabinet Members and decide their portfolios | ✓ | | | | |
| Establish Cabinet Committee or working group | | | ✓ | | |
| Delegate Executive Function to a Cabinet Member or Officer | ✓ | | | | |
| Delegate Executive Function to an Officer with prior consent of Leader | | ✓ | ✓ | | |
| Undertake such specific Executive Function as may be allocated from time to time by the Leader | ✓ | ✓ | ✓ | | CX/DCX |
| Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet | | | ✓ | | |
| Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet | | | ✓ | | |
| Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act | ✓ | | | | |
| Undertake any Executive Function delegated to Cabinet which in the opinion of the Chief Executive | ✓ | | | | |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|--|---------------|-----------------------|----------------|------------------------------|---|
| requires an urgent decision before the next meeting of Cabinet | | | | | |
| Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree | ✓ | | | | |
| Legal Services | | | | | |
| Undertake the role and functions of the Council's Solicitor and Chief Legal Officer and provide the Council's legal service | | | | | Monitoring Officer / Head of Legal Services |
| Audit | | | | | |
| Undertake the functions of the Council in respect of internal audit | | | | | DCX - SWAP |
| HR | | | | | |
| Undertake functions of the Council in respect of human resources and payroll | | | | | CX - Publica |
| Building Control | | | | | |
| Undertake functions of the Council in respect of building control | | | | | CX - Publica |
| Assets & Property | | | | | |
| Agree asset strategic/management plan | | | ✓ | | |
| To be notified of any disposal of non-land assets with a value exceeding £10,000 | | | ✓ | | DCX - Publica |
| To be notified of any disposal of non-land assets with a value not exceeding £10,000 | | ✓ | | | DCX - Publica |
| Make compulsory purchase order (CPO) | | | ✓ | | |
| Acquire land or property following CPO | | | | | CX |
| Propose to Council a property acquisition or disposal under the Council Recovery Investment Strategy with a value exceeding £3,000,000 | | | ✓ | | |
| Acquire or disposal of land and property under the Council Recovery Investment Strategy with a value up to £3,000,000 | | | ✓ | | |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|--|--------|----------------|---------|-----------------------|--|
| Propose to Council a property acquisition or disposal (other than following CPO or under Council Recovery Investment Strategy) where the value exceeds £1,000,000; | | | ✓ | | |
| Agree a property acquisition or disposal (other than following CPO or under the Council Recovery Investment Strategy) where the value is over £250,000 and up to £1,000,000; | | | ✓ | | |
| Agree a property acquisition or disposal (other than following a CPO or under the Council Recovery Investment Strategy) where the value is more than £50,000 but does not exceed £250,000; | | ✓ | | | |
| Agree a property acquisition or disposal (other than following a CPO or under the Recovery Investment Strategy) where the value does not exceed £50,000; | | | | | DCX - Publica |
| Agree Surplus Property Register and determine whether to retain the property or to dispose of it (the timing of such disposal to be at the discretion of the Deputy Chief Executive) | | ✓ | | | DCX - Publica |
| Dispose of, exchange or appropriate public open space (any value) where there have been objections to the statutory notice of disposal or appropriation | | | ✓ | | |
| Appropriate land (except public open space where objections to the statutory notice of intended appropriation are received) | | ✓ | | | |
| Propose to Council to dispose of or exchange land with a value exceeding £1,000,000 except under the Council Recovery Investment Strategy where the threshold is £3,000,000 | | | ✓ | | |
| Dispose of or exchange land with a value exceeding £250,000 up to £1,000,000 (including at an undervalue) | | | ✓ | | |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|---|--------|----------------|---------|-----------------------|--|
| Dispose of or exchange land with an annual value exceeding £500,000 but not exceeding £250,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal) | | ✓ | | | |
| Dispose of or exchange land with an annual value not exceeding £50,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal) | | | | | DCX - Public |
| Dispose of statutory allotments | | | ✓ | | |
| Apply to Secretary of State to dispose of housing land under Housing Act 1985 | | ✓ | | | |
| Give public notice of a proposal to dispose of or change the use of public open space | | | | | DCX - Publica |
| Approval of rent reviews where the annual rent exceeds £250,000 and reviews are the subject of negotiation | | | ✓ | | |
| Determination of rent reviews: (a) Where the annual rental does not exceed £250,000; or (b) Where the annual rental exceeds £250,000, where a calculation mechanism is set down in the lease and has no element of negotiation | | ✓ | | | DCX - Publica |
| Determination of rent reviews: (a) Where the annual rental does not exceed £50,000; or (b) Where the annual rental exceeds £50,000, where a calculation mechanism is set down in the lease and has no element of negotiation | | | | | DCX - Publica |
| Grant consents and licences under any leases granted by the Council | | | | | DCX - Publica |
| Apply for consents and licences under any leases under which property is held by the Council | | | | | DCX - Publica |

| FUNCTION | Leader | Cabinet Member | Cabinet | Other Local Authority | Officer Chief Executive (CX) or Deputy Chief Executive (DCX) |
|--|--------|----------------|---------|-----------------------|--|
| Authorise rent subsidy (exceeding a value of £250,000) to third party on Council owned land | | | ✓ | | |
| Authorise rent subsidy (exceeding £50,000 but not exceeding a value of £250,000) to third party on Council owned land | | ✓ | | | |
| Authorise rent subsidy (not exceeding £50,000) to third party on Council owned land | | | | | DCX - Publica |
| All other matters within the day-to-day management of the Council's property portfolio where the value of the action taken does not exceed £50,000 | | | | | DCX - Publica |

Definitions:

- “Acquire” includes the acquisition (including the acceptance of a surrender where appropriate) of a freehold or leasehold interest, rights, benefits or privileges, the dedication under statutory powers or obligations and includes the variation of any lease where the Council is a tenant under the lease.
- Appropriation (appropriate)” is the formal transfer of property within the Authority from one statutory function to another
- “Dispose” includes the transfer of a freehold interest, dedication under statutory powers or obligations, easements (leasehold or freehold) and the grant, release, assignment or giving of a surrender (as appropriate) of any lease, covenants, benefits rights or privileges and includes the variation of any lease where the Council is a landlord under the lease.
- “Land” includes all buildings structures, rights and interests associated with land
- “Lease” includes any tenancy, licence, consent to occupy
- “Subsidy”, where there is reference to rent subsidy, is to the value of the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment
- “Value”, where there is reference to a lease/tenancy/licence/surrender, is to the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment

Additional Delegation of Executive Functions to Officers

3E.17 All Executive Functions, other than those allocated in Table 4 of this Part 3E, are delegated to the Chief Executive and Deputy Chief Executive as set out in Table 5 below.

3E.18 In addition, the Chief Executive and Deputy Chief Executive will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member.

Table 5-Additional Executive Functions of Officers

| Chief Executive | |
|--|--|
| Function | Condition |
| Discharge any Executive Function which is delegated to an Officer under Part 3E | Where that Officer is absent or unable to act through conflict of interest or otherwise. |
| Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader or Cabinet Member. | Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting. |
| To authorise Officers to represent the Authority before a court or tribunal pursuant to: - (a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: - (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 (b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007 (c) The Lay Representatives (Rights of Audience) Order 1999. | In consultation with the Head of Legal Services |
| Authorise any Officer to or for any legal purpose including Statutory Officer appointments. | Unless otherwise prescribed by law or allocated to Council in Part 3B. |
| Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities. | |
| Authorise requests for investigations under the Regulation of Investigatory Powers Act 2000 and to maintain a register of investigations authorised under the Act. | |
| Deputy Chief Executive | |
| Function | Condition |
| Discharge any Executive Function which is delegated to an Officer (including the Chief Executive) under this Part 3E | Where that Officer is absent or unable to act through conflict of interest or otherwise. |
| Undertake the role of Chief Executive | Where the Chief Executive is absent or unable to act through conflict of interest or |

| | |
|---|---|
| | otherwise. This Function falls to the Deputy Chief Executive or Monitoring Officer who is deputising for that period. |
| Undertake emergency planning and civil defence functions. | |

Appendix A - Cabinet, Cabinet Member Portfolios and Decision making by Individual Cabinet Members

| Cabinet | |
|----------------|--|
| 1 | The Cabinet will bear the responsibility for any of the local authority's functions which are delegated to it by the Leader. |
| 2 | The Leader will publish a Forward Plan at least monthly, showing a twelve-month programme of work and those decisions which are "Key Decisions", and also those decisions that may be made by an Individual Cabinet Member or which are delegated to an officer to make. |

Decisions by Individual Cabinet Members

1. Decision making by Individual Cabinet Members applies only to Executive functions that have been delegated to the Leader. The process does not apply to any function exercised by Council itself, or that Council has delegated to a Committee, Sub-committee or Officer.
2. Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility (portfolios are outlined below) except:
 1. Decisions already taken by Cabinet or an Officer acting under delegated powers.
 2. Decisions involving a departure from the Council's Budget or Policy Framework or any Cabinet or regulatory committee policy.
 3. Decisions which the Leader wishes to be taken by the full Cabinet or a decision which the Cabinet Member has asked to be taken collectively by the full Cabinet.
 4. Where at least 3 Members of the Council request that a decision be taken by the full Cabinet.

provided that all such decisions will be taken by the decision maker having regard to the advice of the Monitoring Officer and Deputy Chief Executive in interpreting these provisions.

3. Cabinet Portfolios

Individual Cabinet Members are empowered by the Leader to make all executive decisions in respect of their own portfolio area of responsibility.

The allocation of portfolios to Cabinet Members will be reported to Council by the Leader of the Council from time to time.

Part 3F - Statutory and Proper Officers

The council has appointed Proper Officers for the purposes of the statutory provisions set out below. Power to appoint Proper Officers is delegated to the Head of Paid Service (Chief Executive), following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by Council.

The Chief Executive and other senior officers shall be authorised to act as the Proper Officer for the statutory responsibilities which fall within their areas of responsibility set out below:

| PURPOSE OF APPOINTMENT | PROPER OFFICER |
|---|---------------------------------------|
| Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the council | Monitoring Officer |
| Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the council | Deputy Chief Executive (S151 Officer) |

| LOCAL GOVERNMENT ACT 1972 | | |
|---------------------------|--|---|
| Section | Purpose | Proper Officer |
| 83 | Witness and receive declarations of Members' acceptance of office | Monitoring Officer |
| 84 | Receive written notice of Members' resignation from office | Chief Executive |
| 88(2) | Convene Council meeting for election to vacant office of Chair. | Chief Executive |
| 89(1)(B) | Receive notice of casual vacancy from two local government electors | Chief Executive |
| 100B(2) | Decide on the exclusion of reports and agendas from public inspection | Monitoring Officer |
| 100B(7)(c) | Decide whether copy documents supplied to Members should also be supplied to the press | Monitoring Officer |
| 100C(2) | Produce a written summary of proceedings taken by a committee in private | Monitoring Officer |
| 100D(1)(a) | Compile a list of background papers to a committee report. | Officer / Publica Officer in whose name the report is written |
| 100D(5)(a) | Identify background papers that disclose facts or matters on which a report is based | Officer / Publica Officer in whose name the report is written |
| 100F(2) | Identify which documents contain exempt information not open to inspection by Members | Monitoring Officer |

| | | |
|--------------------------|--|--|
| 115(2) | Receive from Officers any money and property committed to their charge in connection with their office | Deputy Chief Executive |
| 146(1) | Sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the Council | Deputy Chief Executive |
| 151 | Responsibility for the administration of the Council's financial affairs. | Deputy Chief Executive |
| 191(2)77 | Receive applications from Ordnance Survey for assistance in surveying disputed boundaries. | Chief Executive |
| 210(6)-(7) | Exercise residual functions relating to charities. | Deputy Chief Executive |
| 225(1) | Receive and retain documents deposited with the Council | Head of Legal Services |
| 229(5) | Certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original | Head of Legal Services |
| 234(1) | Sign public notices, orders and other documents on behalf of the council | Head of Legal Services (generally) and the officers listed in the Scheme of Delegation within their area of responsibility (see Part 3 Section 18) |
| 238 | Certification of copy bylaws | Head of Legal Services |
| Sch.12 Pt1 Para.4(2)(b) | Sign and send to all Members of the council the summons to attend meetings of the council | Chief Executive |
| Sch.12 Pt1 Para 4(3) | Receive written notice from a Member of the address to which a summons to the meeting is to be sent | Monitoring Officer |
| Sch.16 Para 38 | Receive of deposit of lists of protected buildings (Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990 | Senior Officer for Planning |
| Schedule 29, Para.4 | Undertake duties at council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer | Chief Executive |
| Sch.29 Pt.I Para.4(1)(b) | Adaptation, modification and amendment of enactments | Head of Legal Services |

LOCAL GOVERNMENT ACT 1974

| Section | Purpose | Proper Officer |
|----------------|--|-----------------------|
| 30(5) | Give public notice of receipt of Local Government Ombudsman's report | Monitoring Officer |

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

| Section | Purpose | Officer |
|----------------|--|-----------------------------|
| 41 | Certifying copy resolutions and minutes of proceedings | Publica Senior Officer with |

| | | responsibility for Democratic Services |
|--|--|--|
| REPRESENTATION OF THE PEOPLE ACT 1983 | | |
| Section | Purpose | Proper Officer |
| 8 | Appointment as Electoral Registration Officer | Chief Executive |
| 35 | Appointment as Returning Officer | Chief Executive |
| 67(7)(b) | Receive declarations and give public notice of election agents' appointments | Chief Executive |
| 81 and 89 | Appropriate officer for the election of councillors | Chief Executive |
| 82(4) | Receive declarations and give public notice of election agents' or candidates' election expenses | Chief Executive |
| 131 | Providing accommodation for holding election count | Chief Executive |

| LOCAL GOVERNMENT FINANCE ACT 1988 | | |
|--|---|------------------------|
| Section | Purpose | Proper Officer |
| 114, 115 and 115B | Responsibility for Chief Financial Officer reports | Deputy Chief Executive |
| 116(1) | Notify the external auditor of a meeting (and decisions made at such a meeting) to consider a report from the Chief Financial Officer (under section 114 and 115 above) | Deputy Chief Executive |

| LOCAL GOVERNMENT AND HOUSING ACT 1989 | | |
|--|--|------------------------|
| Section | Purpose | Proper Officer |
| 2(4) | Hold the council's list of politically restricted posts | Monitoring Officer |
| 3A | In consultation with the Monitoring Officer, determine applications for exemption from political restriction or for designation of posts as politically restricted | Chief Executive |
| 4 | Designation as Head of Paid Service | Chief Executive |
| 5(1) | Designation as Monitoring Officer | Monitoring Officer |
| 5(7) | Nominated as Deputy Monitoring Officer | Head of Legal Services |
| 15-17 | Undertake all matters relating to the formal establishment of political groups within the membership of the council | Monitoring Officer |

| THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990 | | |
|--|--|-----------------------|
| Regulation | Purpose | Proper Officer |
| 8(1), 8(5), 9(b), 10, 13(1), 14 and 17 | Notifications to and by the Proper Officer | Monitoring Officer |

**LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22 LOCAL AUTHORITIES
(EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION)
(ENGLAND) REGULATIONS 2012**

| Regulation | Purpose | Proper Officer |
|-------------------|--|--|
| 7 | Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public | Publica Senior Officer with responsibility for Democratic Services |
| 10 | Inform the relevant Overview and Scrutiny Committee Chair or the Committee Members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity requirements (in the "Forward Plan") and make available for public inspection notices relating to this | Monitoring Officer |
| 12 | Produce a written statement of Cabinet decisions made at meetings | Publica Senior Officer with responsibility for Democratic Services |
| 13 | Produce a written statement of decisions made by individual Cabinet Members | Publica Senior Officer with responsibility for Democratic Services |
| 14 | Make a copy of written statements of Cabinet and Cabinet Member and officer executive decisions and associated reports available for inspection by the public | Publica Senior Officer with responsibility for Democratic Services |
| 15 and 2 | Make available for inspection a list of background papers | Publica Senior Officer with responsibility for Democratic Services |
| 16(5) | Determine whether certain documents contain exempt information | Head of Legal Services /Monitoring Officer |
| 16(7) | Determine whether certain documents contain advice provided by a political adviser or assistant | Monitoring Officer |
| 20 | Determine whether documents contain confidential information, exempt information or the advice of a political adviser or assistant | Head of Legal Services or Monitoring Officer |

**LOCAL GOVERNMENT ACT 2000, SECTION 34
LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) REGULATIONS
2000**

| Regulation | Purpose | Proper Officer |
|-------------------|---|-----------------------|
| 4-5 | Publish the verification number of local government electors for the purpose of petitions under the Local Government Act 2000 | Chief Executive |

**REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000
THE REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF OFFICES,
RANKS AND POSITIONS) ORDER 2000**

| Section | Purpose | Proper Officer |
|-----------------------|---|-----------------------|
| 21, 22, 27, 28 and 29 | Functions relations to the Regulation of Investigatory Powers Act 2000 (RIPA) | Chief Executive |

**REGULATION OF INVESTIGATORY POWERS ACT 2000, SECTIONS 22(2)(B) AND 25(2);
THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER
2010; THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE
AND PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010; THE
REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN INTELLIGENCE
SOURCES: CODE OF PRACTICE) ORDER 2010**

| Regulation | Purpose | Proper Officer |
|-------------------|---------------------------------------|-----------------------|
| - | Designated Senior Responsible Officer | Chief Executive |

FREEDOM OF INFORMATION ACT 2000

| Section | Purpose | Proper Officer |
|----------------|--|--|
| 36 | Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs | Senior Officer with responsibility for Data Protection |

THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001

| Regulation | Purpose | Proper Officer |
|-------------------------|---|-----------------------|
| Sch.1, Pt.II, Paras 5-6 | Notifications to the Cabinet concerning appointments and dismissals | Chief Executive |

LOCAL GOVERNMENT ACT 2003

| Section | Purpose | Proper Officer |
|----------------|--|------------------------|
| 25 | When the annual budget report is considered by Cabinet or by the Council, the Chief Financial Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves | Deputy Chief Executive |

| LOCALISM ACT 2011 | | |
|--------------------------|---|--|
| Section | Purpose | Proper Officer |
| 29 | Establish, maintain and publish a Register of Interests | Monitoring Officer |
| 33(1) | Receiving applications for dispensations | Monitoring Officer |
| 33(2) | Grant dispensations to Members to speak only or to speak and vote on matters where they have a Disclosable Pecuniary Interest | Monitoring Officer |
| Sch.2, Pt1, Para.9FB | Designation as Scrutiny Officer | Senior Officer with responsibility for Democratic Services |

| THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012 | | |
|---|---|-----------------------|
| Regulation | Purpose | Proper Officer |
| 2, 7, 10, 12, 13-16, 20 | Functions relating to the recording and publication of information relating to Executive decisions | Monitoring Officer |
| 12-13 | Grant dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a member or officer taking such a decision | Chief Executive |

| Section | Purpose | Proper Officer |
|----------------|--|--|
| 69, 70 and 71 | The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018 | Senior Officer with responsibility for Data Protection |

In the event of the Chief Executive being unavailable to deal with matters for which they have been designated the Proper Officer, the Deputy Chief Executive or Monitoring Officer may be authorised by them to act as Proper Officer in their absence.

In the event of any other designated officer being unable to fulfil their duties as Proper Officer, their deputy shall be authorised to undertake such duties instead.

Notwithstanding the above, a Proper Officer may at any time delegate or authorise other officers to perform the designated duties on their behalf.

Part 3G - ROLES AND RESPONSIBILITIES OF ALL COUNCILLORS

Councillors will participate constructively in the good government of the District in the interest of all residents. They will contribute actively to the formation and scrutiny of the Council's policies, budget, strategies, plans and service delivery.

Councillors will deal with the constituents' enquiries and representations, and will effectively represent the interests of the Ward for which they were elected and views of constituents.

Councillors may also be required to represent the Council on an outside body, such as a governing body or charitable trust.

DUTIES

- To fulfil the statutory and locally determined requirements of an elected Member of the Council.
- To participate effectively as a Member of any working group to which the Councillor is appointed.
- To participate in the activities of an outside body to which the Councillor is appointed.
- To participate, as appointed, in the scrutiny of the services and policies of the Council and their effectiveness in meeting the strategic objectives of the Council and the needs of its residents.
- To participate in Working Groups.
- To represent the Council to the community and the community to the Council and to other relevant bodies. To provide a voice and advice for local individuals and interest groups in their dealings with the Council and, where appropriate, to advise them on the pursuit of complaints.
- To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop good working relationships with relevant Officers of the Council.
- To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the Community's well-being and identity, including developing and maintaining good working relationships local Town and Parish Councils and with local County Councillors.
- To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
- To keep up to date with all developments affecting the District and the Council including Government policies and prospective legislation.

Part 3H – GLOSSARY OF TERMS USED IN CONSTITUTION

Cabinet - A number of elected Council members appointed by the Leader of the Council and who, together with the Leader, act as the body which is responsible for most formal decisions.

Cabinet Member - A councillor who has been appointed by the Leader of the Council as a Member of the Cabinet. Cabinet Members remain in office until the next election unless they resign, are suspended, are no longer a member of the Council or are removed from office by the Leader.

Call-in - The consideration by Overview & Scrutiny committee of a decision made, but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that Full Council be recommended that the decision be reconsidered.

Chair - The person appointed to preside at meetings of any properly constituted body.

Chief Executive - The officer with overall management and operational responsibility (including overall management responsibility for all officers). This post holder is also the “Head of Paid Service” as appointed in accordance with Section 4 of the Local Government and Housing Act 1989.

Chief Finance Officer - The officer appointed by the Council under Section 151 of the Local Government Act 1972, to exercise the proper administration of the Council’s financial affairs, with specific responsibilities under the Local Government Act 1972 (currently the Deputy Chief Executive).

Clear working day - A clear working day excludes Saturday, Sunday and bank and public holidays (and in the case of committee agenda excludes the date of publication of the agenda and the date of the meeting).

Committee - A committee of the authority.

Council - Cotswold District Council.

Exempt - Information to be considered at a Council or Committee meeting in respect of which the public may be excluded (as defined by Schedule 12A of the 1972 Act (as amended)). Categories of exempt information are:

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 matter arising between the authority or a Minister of the Crown and employees of, or office holders 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 –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person or task
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Executive Functions - Functions which may be discharged by the Leader, or delegated by the Leader to the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, an officer or another local authority.

Forward Plan - A plan to be published by the Cabinet and updated on a monthly basis in accordance with Regulations 13 and 14 of the 2000 Regulations, setting out the Key Decisions which the Cabinet plans to take over the coming months.

Head of Paid Service - The officer appointed in accordance with Section 4 of the Local Government and Housing Act 1989, i.e. the Chief Executive.

Key Decision - A decision which is significant. This Council has previously determined the definition of a “key decision”, which is:

- (i) any Cabinet decision which requires a budget expenditure, or generates savings, of £100,000 or more;
- (ii) any executive decision where the outcome will have a significant impact on communities living or working in an area comprising two or more District Wards.

Leader of a Political Group - The leader of a political group as defined in the Local Government (Committee etc.) Regulations 1990.

Leader - Such person as the Council elects to be the Leader with powers outlined in the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.

Local Choice Functions As defined by Regulation 3 and Schedule 2 to the Local Authority (Functions and Responsibilities) (England) Regulations 2000, where the authority has decided which functions are to be the responsibility of the Executive.

Meeting - A meeting of the Council, Cabinet, a committee or sub-committees or task groups as the case may be.

Member - In relation to the Council, an elected Councillor; in relation to any other

body, a person appointed as a member of that body, whether or not entitled to vote.

Monitoring Officer - The officer appointed by the Council in accordance with Section 5 of the Local Government and Housing Act 1989, to promote and maintain high standards of ethical conduct and ensure lawfulness and fairness of decision making or, if he/she is unable to act owing to absence or illness, the person nominated as his/her deputy).

Overview and Scrutiny Committee – Committee or Committees of the Council established in accordance with Section 21 of the Local Government Act 2000, to assist in the development of policy and to review and scrutinise the decisions made by the Cabinet, committees and council officers (there is currently one Overview and Scrutiny Committee which also acts as the Council's Crime and Disorder Committee).

Political Balance Rules - As defined in the Local Government and Housing Act 1989 relating to proportional representation of political groups; on committees, sub-committees and certain other bodies.

Political Groups - Any two or more councillors notifying the Monitoring Officer in the appropriate form is considered a political group for the purpose of seat allocation.

Portfolio Holder - A Cabinet Member with a specific and detailed area of responsibility, and who may be delegated to take executive decisions.

Proper Officer – An officer, appointed in accordance with the terms of Section 270(3) of the Local Government Act 1972, to carry out specified actions of the performance of certain specified duties on behalf of the Council.

Regulatory Committee - A committee undertaking quasi-judicial functions of the Council (such as Planning & Licensing Committee).

Task & Finish Group – a small working group of interested elected members who review specific issues of concern to Overview and Scrutiny in depth.

The 1972 Act - The Local Government Act 1972.

The 1989 Act - The Local Government and Housing Act 1989.

The 2000 Act - The Local Government Act 2000.

The 2007 Act - The Local Government and Public Involvement in Health Act 2007.

Vice-Chair - The person appointed to preside in the absence of the Chair, at meetings of any properly constituted body.

The following powers are delegated to the Senior Officer responsible for Planning, who may nominate and appoint such officer(s) to assist them to undertake the functions and duties:

Delegated scheme for decisions by officers on planning applications

In order to assist members to concentrate their limited time on the more significant proposals, and to reduce the inevitable delays associated with preparing reports for presentation to a monthly committee, the following areas of responsibility are delegated to the Senior Officer responsible for Planning. Categories of applications subject to delegation are set out below. The scope of delegation may be amended by a majority of the members present at a meeting of the Planning and Licensing Committee to which a report is submitted and there will be no requirement to comply with the procedure for amending the constitution. Changes to officer titles, onward delegations and minor drafting changes can be made without referral back to the committee.

Any reference to legislation, rules, orders or regulations in the schedules shall be read as a reference to any subsequent amendment or re-enactment of the same.

Proper Officer Functions

Compilation and identification of lists of background papers - For the purpose of section 100(D)(1)(a) and section 100(D)(5)(a) of the Local Government Act 1972 for the compilation and identification of lists of background papers for reports prepared in the name of the Senior Officer responsible for Planning or, where first named, in joint reports.

Protected buildings- For the purpose of schedule 16 paragraph 28 of the Local Government Act 1972 in relation to the receipt on deposit of lists of protected buildings (section 2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

General Powers

All powers necessary and appropriate for the operational discharge of those functions for which the Senior Officer responsible for planning is responsible, whether mandatory or discretionary, delegated or allocated to the Council by statute, regulation, ministerial or European directive, law or agreement are deemed delegated to the Senior Officer responsible for planning without the necessity of a specific resolution of Council unless the specific statute, regulation, etc. requires a positive resolution of Council or a specific procedure to be adopted before the function may be undertaken by the Council. Such delegated powers are to be exercised with due professional skill and diligence relevant to the post and are subject to the limitations, if any, set by the Council and budgetary resources and must be exercised in compliance with and consistent with the principles of this constitution, the policy framework and the law. Senior Officer responsible for planning is authorised to appoint such officers from amongst the staff in the group, as they consider necessary to assist in the discharge of the functions.

This general power will be interpreted as including those specific powers delegated to the Senior Officer responsible for planning of the Council up to and including the adoption of this constitution.

Note: 'Operational discharge of functions' relates to those decisions and actions, which are required to be made or taken to undertake the day to day operational activities arising with regard to those functions allocated to the Senior Officer responsible for planning .

Enforcement

All enforcement powers are delegated to the Senior Officer responsible for Planning, including but not limited to:

1. To authorise named officers to enter land under the following provisions:-
 - a. Section 324 of the Town and Country Planning Act 1990
 - b. Sections 196a and 196b of the Town and Country Planning Act 1990.
 - c. Sections 214b and 214c of the Town and Country Planning Act 1990.
 - d. Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. To serve Requisitions for Information and Planning Contravention Notices under the following enactments:-
 - a. Section 330 of the Town and Country Planning Act 1990.
 - b. Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
 - c. Section 89 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
 - d. Section 171c of the Town and Country Planning Act 1990.
3. To serve breach of condition notices
4. To serve enforcement notices
5. To serve Notices under section 215 of the Town and Country Planning Act for remedying the condition of land and to undertake consequent legal or direct action in default to secure compliance with the notice and recover expenses reasonably incurred
6. In cases of urgency the following matters:
 - a. Issuing Article IV Directions
 - b. Issuing and Serving of a Listed Building Enforcement Notice
 - c. Issuing and Serving a Stop Notice
 - d. Issuing and Serving and Temporary Stop Notice
 - e. Tree Preservation Orders
 - f. Building Preservation Orders
7. Powers of action under Section 225 of the Town and Country Planning Act 1990 relating to fly posting and/or as amended or extended by the Clean Neighbourhoods and Environment Act 1990

8. Applications under the Transport Act to the Licensing Authority for Goods Vehicle Operator's Licence: authority to make observations on the application to the Licensing Authority.

9. To determine that no further action is required in respect of a breach of planning control which could have been dealt with under delegated powers through the grant of a planning permission had an application been submitted.

10. To withdraw Enforcement Notices and Breach of Condition Notices when they have clearly been complied with and it is no longer possible for breaches to occur.

11. The power to withdraw Article 4 Directions where it is no longer expedient to remove permitted development rights.

Trees

The following powers are delegated in relation to trees and tree management:

1. The making, revoking or amending of a Tree Preservation Order

2. Authority to confirm an unopposed Tree Preservation Order

3. Authority to determine:

a. any application to carry out work to a tree(s) subject to a Tree Preservation Order (subject to consultation with the Ward Member(s) in any case where the officer is recommending refusal or where objections have been received)

b. any notification to carry out work to a tree within a Conservation Area (subject to consultation with the Ward Member(s) in any case where the officer intends serving a TPO or an objection has been received)

4. To authorise named officers to enter land under the following provisions:

a. Section 324 of the Town and Country Planning Act 1990

b. Sections 196a and 196b of the Town and Country Planning Act 1990

c. Sections 214b and 214c of the Town and Country Planning Act 1990

5. To exercise the Council's powers under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to dangerous trees, including rights of entry onto land and into buildings

6. To determine Hedgerow Removal Notices and ancillary matters

7. Authority to deal with complaints about High Hedges under Part 8 of the AntiSocial Behaviour Act 2003

8. To deal with any consultation (subject to their being no objections) by the Forestry Commission under:

a. Felling licence regulations

b. The Forestry Grant Scheme

c. Dedication scheme or such schemes and regulations as may replace or supplement any of the above.

9. To determine, that no further action is required in respect of a breach of control which could have been dealt with under delegated powers had an application been submitted.

Development Management

1. To authorise named officers to enter land under the following provisions:-

a. Section 324 of the Town and Country Planning Act 1990.

b. Sections 196a and 196b of the Town and Country Planning Act 1990.

c. Sections 214b and 214c of the Town and Country Planning Act 1990.

d. Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. To determine whether the prior approval of the Local Planning Authority is required for development falling within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

3. Authority to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) and to offer screening and scoping opinions.

4. To determine (with or without planning conditions or obligations) all planning applications and applications for Advertisement Consent, Listed Building Consent, Conservation Area Consent (as amended), Certificates of Lawfulness, Time Limit Extensions, Variation of Conditions (S73) or Prior Approval under the General Permitted Development Order under delegated powers, with the following exceptions:-

a. Planning Applications where a District Councillor requests (in writing) that it be determined by the Committee, stating the planning reasons for such referral, and where such referral has been agreed in accordance with the referral process set out in the Planning Protocol.

b. Applications where the intended decision would be a material departure from the provisions of the approved or draft development plan or other approved or adopted Council planning policies or Supplementary Planning Guidance.

c. Applications submitted by or on behalf of the Council or which, in the opinion of the Senior Officer with responsibility for Planning or the Senior Officer with responsibility for Assets affect Council owned land and/or buildings.

d. Applications for floodlight masts exceeding 6m in height when operational and Planning Applications for telecommunications masts (with the exception that additional antennae may be allowed provided that the Government's safety

guidelines are met) (NB Applications for telecommunication masts under the prior approval process can be determined under delegated powers)

e. Applications submitted by or on behalf of a Member of the Council or by a relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in)

f. Applications submitted by or on behalf of an employee of the Council or Publica which relate to land in their ownership or in which they have a beneficial interest (or their spouse/partner), with the exception of applications made by non-planning staff (excluding those in politically restricted posts) for minor works to a dwelling, such as extensions, alterations and works within the curtilage.

g. Applications which involve the proposed variation or discharge of a section 106 deed that materially differs from the Council's standard models or departs from the reasons for the original imposition of the obligation

h. Applications which the Senior Officer with responsibility for Planning considers should be referred to the committee for determination.

i. Applications where the views of the Town Council or Parish Council are clearly contrary to the proposed recommendation and cannot be resolved by condition or negotiation (with the exception of householder development or advertisement consent, which may continue to be delegated) j. Applications submitted within one year of a dismissed appeal on the site where it is intended that the application be approved (other than where the approval would reflect the clear views of the Inspector when determining the initial appeal)

Note: In relation to 4. above the following apply:

- For applications where one or more objections have been received the officer will, at least one calendar week before the determination deadline (statutory or extended by agreement), consult the Ward Member prior to determining the application.
- The restrictions set out in categories (a) to (j) above shall not apply to applications for a resubmission of an extant valid planning permission or to applications where the principle of the development has already been agreed by a previous permission/consent and the new proposal contains details generally consistent with the earlier permission and planning circumstances have not changed
- The restrictions set out in categories (a) to (j) above shall not apply to any application seeking Reserved Matters consent where the principles have previously been agreed and the details are consistent with the criteria set out in the outline permission.
- The determining officer shall only exercise the delegated powers after taking into account all material planning considerations, including any written planning objections or representations which may have been received.

- The determining officer shall only exercise the delegated powers in accordance with planning legislation, regulations and procedures under which provision may be made for reference of applications to the Secretary of State or other statutory body.

- The determining officer shall only exercise the delegated powers following the expiry of the relevant consultation periods (with the proviso that where, because of the submission of the application in relation to the meeting date, it is not possible to deal with an application within the statutory period, then the application shall be referred to the committee in advance of the expiry of the consultation period for Members to determine whether they wish to delegate determination of the application to Officers).

5. To determine discharge of conditions applications, Minor and Non Material Amendments

6. To respond to applications for the winning and working of minerals or the use of land for mineral- working deposits (a “County matter” and, therefore, not determined by this Council which has only a consultee role) following consultation with the Ward Member, and with the Chair of the Planning and Licensing Committee and the Leader of the Council.

7. To respond to applications for waste development (a “County matter” and, therefore, not determined by this Council which has only a consultee role) following consultation with the Ward Member, and with the Chair of the Planning and Licensing Committee and the Leader of the Council.

8. Applications under the Transport Act to the Licensing Authority for Goods Vehicle Operator's Licence: authority to make observations on the application to the Licensing Authority.

9. Authority to submit observations on Traffic Orders to the Highway Authority.

10. To decide whether to decline to determine applications under sections 70a and 70b of the Town and Country Planning Act and sections 81a and 81b of the Planning (Listed Buildings and Conservation Areas) Act 1990

11. To determine applications for Permission in Principle and Technical Details Consent

12. To determine applications where a decision to return the matter to committee would result in the potential for the application fee to be refunded as no extension of time has been agreed

13. To advertise applications for footpath diversions

14. To respond to Gloucestershire County Council in respect of Regulation 3 and Regulation 4 proposals

Conservation Areas

With the exception of either the designation of or an amendment to the boundaries of a Conservation Area, to exercise the Council's functions in relation to Conservation Areas.

Safeguards

The referral procedure may be invoked if a member of Council is concerned about the planning merits of any proposal which would normally be delegated. This right of referral does not apply to applications for a certificate of lawfulness or where information requested by the officers has not been received from the applicant.

The Senior Officer responsible for Planning cannot grant permission where:

- the proposal is contrary to the adopted policies of the Council;
- raises a significant material consideration not addressed by adopted standards or where approval is recommended contrary to the advice of a statutory consultee

The Senior Officer responsible for Planning will have discretion to determine proposals where objections are received relating to submissions that have strict, statutory time limits for making decisions or taking action. These applications, e.g. agricultural buildings; demolitions and telecommunications determinations under the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent replacement or amendment; in respect of notifications of works to trees in Conservation Areas, etc.; or may result in an automatic permission if no response is submitted on behalf of the Council. Any objection received will be considered by the Senior Officer responsible for Planning and, at their sole discretion, efforts may be made to resolve the objection before the expiry period, but the existence of the objection will not alter their authority in those instances to make a decision.

All applications will be subject to normal consultations, publicity and notifications and no delegated decisions will be made until after the expiry of any consultation or publicity periods.

The Senior Officer responsible for Planning will use their discretion to refer any proposal to the committee if they are not satisfied that they should deal with the matter under delegated powers, particularly where there is significant public concern.

Planning Applications by the Council itself:

All applications which are submitted by the Council itself must be reported to the Planning and Licensing Committee for a decision rather than being dealt with in accordance with the scheme of delegation to officers. However, once the principle of development has been established subsequent applications to discharge conditions or for minor variations may be determined in accordance with the scheme of delegation.

Planning Application by an Employee of the Council or Publica:

Applications submitted by or on behalf of an employee of the Council or Publica (or their spouse/partner) which relate to land in their ownership or in which they have a beneficial interest, will be reported for determination by the committee. Exceptions may be made for non-planning staff (excluding those in politically restricted posts) for applications for minor works to a dwelling, such as extensions, alterations and works within the curtilage.

Planning Applications from Members or their relatives:

All applications which are submitted by or on behalf of a Member of the Council or by a relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in) must be drawn to the attention of the Senior Officer responsible for Planning, and will be reported to the Planning and Licensing Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officer

Approved by Full Council 18.11.2020

Council has delegated to committees and officers the exercise of a range of functions set out in the table below (as referred to in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended), which are not the responsibility of the Executive.

- 3D.1 When exercising these delegated powers, officers should maintain a close liaison with the relevant committee chairman and refer any proposed action to the relevant committee if required by the chairman.
- 3D.2 Officers may, in turn, authorise other officers to exercise their functions, or escalate the making of those decisions to Chief Executive or Deputy Chief Executive but must ensure that such delegations are documented and are regularly reviewed.
- 3D.3 Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility, except those reserved by law to others.
- 3D.4 Any Non-Executive function may be exercised by the Chief Executive or the Deputy Chief Executive notwithstanding its delegation to another officer (except those reserved by law to others).
- 3D.5 In the absence of the Chief Executive The Deputy Chief Executive is authorised to exercise any functions which are delegated to the Chief Executive
- 3D.6 Officers (or an officer authorised by them) may act on urgent matters, which would otherwise require reference to, or consultation with Council or a committee, if there is no time for such reference or consultation to be made; relevant committee chairmen should be consulted if time permits. All such decisions should be reported to the next meeting of Council or committee.
- 3D.7 Certain Non-Executive decisions taken by officers must be recorded and published, in accordance with The Openness of Local Government Bodies Regulations 2014.
- 3D.8 In addition to the specific powers detailed in the tables below all powers necessary and appropriate for the operational discharge of functions, whether mandatory or discretionary are deemed delegated to the Senior Officer(s) with responsibility for discharging that function, or exercising that power, without a specific resolution of Council or Cabinet, unless the legislation requires a positive resolution or a specific procedure to be adopted before the function can be undertaken. Such delegated powers are to be exercised with due professional skill and diligence relevant to the post and are subject to the limitations, if any, set by the relevant committee and budgetary resources. Further, such delegated powers will be exercised in compliance with and consistent with the policy framework adopted by Council and in accordance with law and the principles of this constitution. The Senior Officers will be able to appoint such officers as they consider necessary to assist in the discharge of the functions.

FUNCTIONS RELATING TO GOVERNANCE

| No | FUNCTION | PROVISION OF ACT OR STATUTORY INSTRUMENT (Where applicable) | RESPONSIBILITY/ DECISION MAKER |
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| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | Proper officer Functions | Any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 | Chief Executive |
| 2. | Authentication of documents | Section 234(1) and (2) of the Local Government Act 1972 | |
| 3. | Signature of summonses for Council Meetings | Schedule 12, paragraph 42(b) of the Local Government Act 1972 | Chief Executive and Monitoring Officer |
| 4. | Witness and receive declarations of acceptance of office | Section 83(1) to (4) of the Local Government Act 1972 | Monitoring Officer |
| 5. | Receive declarations of resignation of office | Section 84 of the Local Government Act 1972 | Monitoring Officer |
| 6. | Convene meetings of Council to fill a casual vacancy in the office of chair | Section 88(2) of the Local Government Act 1972 | Monitoring Officer |
| 7. | Receive notice of a casual vacancy | Section 89(1)(b) of the Local Government Act 1972 | Monitoring Officer |
| 8. | Access to agenda and connected report | Section 100B(2) of the Local Government Act 1972 | Monitoring Officer |
| 9. | Supply of papers to the press | Section 100B(7)(c) of the Local Government Act 1972 | Monitoring Officer |
| 10. | Summaries of minutes | Section 100C(2) of the Local Government Act 1972 | Monitoring Officer |
| 11. | Compilation of lists of background papers where the report has been prepared in the name of the Chief Executive or any member or any other instances exclusive of named Senior Officers (including first named in joint reports) | Section 100D(1)(a) of the Local Government Act 1972 | All Senior Officers |
| 12. | Identification of background papers where the report has been prepared in the name of the Chief Executive or any member or any other instances exclusive of named Senior Officers (including first named in joint reports) | Section 100D(5)(a) of the Local Government Act 1972 | Monitoring Officer |

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| 13. | Determination of papers not open to inspection by members | Section 100F(2) of the Local Government Act 1972 | Chief Executive and Monitoring Officer |
| 14. | Deposit of documents | Section 225(1) of the Local Government Act 1972 | Monitoring Officer |
| 15. | Certification of photographic copies | Section 229(5) of the Local Government Act 1972 | Monitoring Officer |
| 16. | Authentication of document | Section 234(1)(2) of the Local Government Act 1972 | Monitoring Officer |
| 17. | Consider exempt status of information to be considered at a Council or Committee meeting in respect of which the public may be excluded | Schedule 12 of the Local Government Act 1972 | Monitoring Officer/Deputy Monitoring Officer |
| 18. | Certification of resolutions under paragraph 25 of Schedule 14 | Schedule 14 of the Local Government Act 1972 | Monitoring Officer |
| 19. | Receipt of Ombudsman Reports | Section 30 of the Local Government Act 1974 | Monitoring Officer |
| 20. | Authentication of copies of minutes etc for production in Court | Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 | Monitoring Officer |
| 21. | Monitoring Officer | Section 5 of the Local Government and Housing Act 1989 | Monitoring Officer |
| 22. | Calculation of Political Balance on Committees | Section 15 of the Local Government and Housing Act 1989 | Monitoring Officer |
| 23. | Receipt of written undertaking from members to observe the Authority's Code of Conduct | Section 52 of the Local Government Act 2000 | Monitoring Officer |
| 24. | Maintain and make available a register of declarations of interests under sections 30 and 31 | Section 29 of the Localism Act 2011 | Monitoring Officer |
| 25. | Grant dispensations from section 31(4) | Section 33 of the Localism Act 2011 | Monitoring Officer |
| 26. | Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal). | Section 112 of the Local Government Act 1972 | Council (for Chief Executive and designation of Chief Finance (S151) Officer & Monitoring Officer). Appointments Panel (for all posts below the Chief Executive) Chief Executive (for all other retained posts) |
| 27. | Power to appoint officers | Section 270(3) of the Local | Chief Executive |

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| | for particular purposes (appointment of proper officers) | Government Act 1972 | |
| 28. | Power to apply the common seal of the Council and sign documents | - | Chief Executive, Deputy Chief Executive, Monitoring Officer and Senior Officer Responsible for Legal Services |
| 29. | To maintain and keep under review a central register of authorisations issued under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000 | Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000 | Senior Officer Responsible for Counter Fraud |

FUNCTIONS RELATING TO FINANCE

| No | FUNCTION | PROVISION OF ACT OR STATUTORY INSTRUMENT (Where applicable) | RESPONSIBILITY/ DECISION MAKER |
|---|--|--|--------------------------------|
| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | Declarations and certificates with regard to securities | Sections 146(1)(a) & (b) of the Local Government Act 1972 | Chief Finance Officer |
| 2. | Proper administration of the Council's financial affairs | Sections 151 of the Local Government Act 1972 | Chief Finance Officer |
| 3. | Receipt of a written statement or Annual report or Accounts deposited under section 137A where the Council has provided financial advice assistance to any organisation body or fund | Section 137A of the Local Government Act 1972 | Chief Finance Officer |
| 4. | Inspection of account by member of the authority | 228(3) of the Local Government Act 1972 | Chief Finance Officer |
| 5. | Giving notice in the press of the amounts of Council Tax that have been set | Section 38(2) of the Local Government Finance Act 1992 | Chief Finance Officer |

FUNCTIONS RELATING TO ELECTIONS

| No | FUNCTION | PROVISION OF ACT OR STATUTORY INSTRUMENT (Where applicable) | RESPONSIBILITY/ DECISION MAKER |
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| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | Power to appoint officers to assist the electoral registration officer | Section 52(4) of the Representation of the People Act 1983 | Chief Executive |
| 2. | Powers in respect of holding of elections. | Section 39(4) of the Representation of the People Act 1983 | Chief Executive |
| 3. | Power to pay expenses properly incurred by electoral registration officers. | Section 54 of the Representation of the People Act 1983 | Chief Executive |
| 4. | Duty to give public notice of a casual vacancy. | Section 87 of the Local Government Act 1972 | Chief Executive |
| 5. | Duties relating to publicity. | Sections 35, 41 and 52 of the 2007 Act | Chief Executive |
| 6. | Duties relating to notice to Electoral Commission. | Sections 36 and 42 of the 2007 Act | Chief Executive |
| 7. | Duties when undertaking a community governance review | Section 93 to 95 of the Local Government and Public Involvement in Health Act 2007 | Chief Executive |
| 8. | Duty to publicise outcome of review | Section 96 of the Local Government and Public Involvement in Health Act 2007 | Chief Executive |
| 9. | Duty to send two copies of order to Secretary of State and Electoral Commission. | Section 98(1) of the Local Government and Public Involvement in Health Act 2007 | Chief Executive |
| 10. | Power to make agreements about incidental matters | Section 99 of the Local Government and Public Involvement in Health Act 2007 | Chief Executive |

FUNCTIONS RELATING TO LEGAL SERVICES

| No | FUNCTION | PROVISION OF ACT OR STATUTORY INSTRUMENT (Where applicable) | RESPONSIBILITY/ DECISION MAKER |
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| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | To institute and defend in their own name all appropriate legal proceedings in any court, for and on behalf of the Council, where a decision has been made, whether under delegated authority of an officer or by the Executive, Council or committee, and which relates to a regulatory or enforcement power. | n/a | Senior Officer Responsible for Legal Services |
| 2. | Where the Council is engaged in any litigation, to have the conduct of the matter and full authority to receive any information in connection therewith and to settle or compromise any proceedings as they deem appropriate and expedient for the Council's interests. | n/a | Senior Officer Responsible for Legal Services |
| 3. | Authority to instruct private practice solicitors or junior barristers to undertake legal work when considered necessary or appropriate. | n/a | Senior Officer Responsible for Legal Services |
| 4. | To prosecute any offence of obstructing staff in the course of their official duties. | n/a | Senior Officer Responsible for Legal Services |
| 5. | Authority to obtain counsel's opinion provided that regular reports are made to Council on the costs of litigation. | n/a | Senior Officer Responsible for Legal Services |
| 6. | In consultation with the Chief Executive to set charges for legal work rechargeable to external | n/a | Senior Officer Responsible for Legal Services |

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| | persons or organisations. | | |
| 7. | Recovery matters - Authority to act on the Council's behalf in respect of attendance at the Magistrates Court and the County Court on all recovery matters, including applications for a committal warrant and attendance at valuation tribunals as appropriate. | n/a | Senior Officer Responsible for Legal Services |
| 8. | Issue notices under the provisions of the Drainage Acts | n/a | Senior Officer Responsible for Legal Services |
| 9. | Court Attendance | Section 223 of the Local Government Act 1972 | members of the Legal Services team may be authorised to prosecute or defend actions and/or cases, and to represent the Council, in any Magistrates' Court proceedings or County Court proceedings, valuation tribunals and planning inquires as appropriate, subject to the Senior Officer with responsibility for Legal Services being satisfied with their legal competence |
| 10. | Authority to complete Planning Agreements | Section 106 of the Town and Country Planning Act 1990 and Section 38 and 278 of the Highways Act 1980 | Senior Officer Responsible for Legal Services |

FUNCTIONS RELATING TO LICENSING
(in so far as not covered by any other part of this scheme of delegation)

| No | FUNCTION | PROVISION OF ACT OR STATUTORY INSTRUMENT (Where applicable) | RESPONSIBILITY/DECISION MAKER |
|---|---|---|--|
| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | Power to issue licences authorising the use of land as a caravan site ("site licences"). | Section 3(3) of the Caravan Sites and Control of Development Act 1960 | Senior Officer Responsible for Operational Services |
| 2. | Power to licence the use of moveable dwellings and camping sites. | Section 269(1) of the Public Health Act 1936 | Senior Officer Responsible for Operational Services |
| 3. | Power to licence hackney carriages and private hire vehicles. | (a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (a) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 | Senior Officer Responsible for Licensing and Business Support or refer to Sub Committee if previous convictions or required by Policy Guidelines |
| 4. | Power to licence drivers of hackney carriages and private hire vehicles. | Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 | Senior Officer Responsible for Licensing and Business Support or refer to Sub Committee if previous convictions |
| 5. | Power to licence operators of hackney carriages and private hire vehicles. | Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 | Senior Officer Responsible for Licensing and Business Support or refer to Sub Committee if required by Policy Guidelines |
| 6. | Any function of a licensing authority (including personal licences and premises licences) | Licensing Act 2003 and any regulations or orders made under that Act | Senior Officer Responsible for Licensing and Business Support or refer to Sub Committee if representations are |

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| | | | received |
| 7. | To exercise power of entry | Section 179 of the Licensing Act 2003 | Senior Officer Responsible for Operational Services |
| 8. | Temporary event notice | Licensing Act 2003, Part 5 The Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005 | Senior Officer Responsible for Licensing and Business Support or refer to Sub Committee if police or environmental health objection received |
| 9. | Any functions of a licensing authority in relation to gambling | Section 163, 164 & 165 of the Gambling Act 2005 | Senior Officer Responsible for Licensing and Business Support or refer to Planning and Licensing Committee if representations are received |
| 10. | Temporary use notice (temporary gaming activities) | Section 215 of the Gambling Act 2005 Gambling Act 2005 (Temporary Use Notices) Regulations 2007 | Senior Officer Responsible for Licensing and Business Support or refer to Planning and Licensing Committee if representations are received |
| 11. | Any functions related to gaming permits | Sections 247, 271, 282, 283, and 289 and Schedules 10, 11, 13 and 14 of the Gambling Act 2005 Gambling Act (Club Gaming Permits) (Authorised Gaming) Regulations 2007 Gaming Machines in Alcohol Licensed Premises (Notification Fee) (England and Wales) Regulations 2007 | Senior Officer Responsible for Licensing and Business Support |
| 12. | Duty to comply with requirement to provide information to Gambling Commission. | Section 29 of the Gambling Act 2005 | Senior Officer Responsible for Licensing and Business Support |
| 13. | Functions relating to exchange of information. | Section 30 of the Gambling Act 2005 | Senior Officer Responsible for Licensing and Business Support |
| 14. | Functions relating to occasional use notices. | Section 39 of the Gambling Act 2005 | Senior Officer Responsible for Licensing and Business Support |
| 15. | Power to institute criminal | Section 346 of the Gambling Act | Senior Officer with |

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| | proceedings | 2005 | Responsibility for Legal Services |
| 16. | Functions relating to the registration and regulation of small society lotteries. | Part 5 of Schedule 11 to the Gambling Act 2005 | Senior Officer Responsible for Licensing and Business Support |
| 17. | Power to licence persons to collect for charitable and other causes. | Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939 | Senior Officer Responsible for Licensing and Business Support |
| 18. | Street collection licence | Sections 66 and 68 of the Charities Act 1992 | Senior Officer Responsible for Licensing and Business Support |
| 19. | Power to licence performances of hypnotism. | The Hypnotism Act 1952 | Senior Officer Responsible for Licensing and Business Support or refer to Planning and Licensing Committee if representations are received |
| 20. | Power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis. | Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 | Senior Officer Responsible for Licensing and Business Support or refer to Planning and Licensing Committee if representations are received |
| 21. | Power to licence markets and street trading. | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982 | Senior Officer Responsible for Licensing and Business Support |
| 22. | Power to issue scrap metal dealers licences | Scrap Metal Dealers Act 2013 | Senior Officer Responsible to Operational Services or refer to Cabinet of previous convictions |
| 23. | Power to license premises for animal activities | Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 | Senior Officer Responsible for Licensing and Business Support or refer to Planning and Licensing Committee if representations are received |
| 24. | Power to licence zoos | Section 1 of the Zoo Licensing Act 1981 | Senior Officer Responsible for Licensing and Business Support or |

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| | | | refer to Planning and Licensing Committee if representations are received |
| 25. | Power to licence dangerous wild animals. | Section 1 of the Dangerous Wild Animals Act 1976 | Senior Officer Responsible for Licensing and Business Support or refer to Planning and Licensing Committee if representations are received |
| 26. | Power to issue Pavement Licenses | Business & Planning Act 2020 | Senior Officer Responsible for Licensing and Business Support or refer to Chair of Planning and Licensing Committee if representations are received |

FUNCTIONS RELATING TO PUBLIC HEALTH, ENVIRONMENTAL HEALTH AND HEALTH AND SAFETY

| No | FUNCTION | PROVISION OF ACT OR STATUTORY INSTRUMENT (Where applicable) | RESPONSIBILITY/DECISION MAKER |
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| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health 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 | Senior Officer Responsible for Operational Services |
| 2. | Inspection of premises the subject of an application for registration as keeper of a Common Lodging House | Section 283 of the Public Health Act 1936 | Senior Officer Responsible for Operational Services |
| 3. | Notices to be signed on behalf of the District Council | Section 284 of the Public Health Act 284 | Senior Officer Responsible for |

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| | | Section 29 of the Public Health (Control of Disease) Act 1984 | Operational Services |
| 4. | Disinfection or destruction of verminous article | Section 37 of the Public Health Act 1936 | Senior Officer Responsible for Operational Services |
| 5. | Public Health Protection Activities | Section 129 of the Health and Social Care Act 2008 | Senior Officer Responsible for Operational Services |
| 6. | Duty to enforce Chapter 1 and regulations made under it | Section 10(3) of the Health Act 2006 | Senior Officer Responsible for Operational Services |
| 7. | Power to authorise officers | Section 10(5) and paragraph 1 of Schedule 2 of the Health Act 2006 | Senior Officer Responsible for Operational Services |
| 8. | Functions relating to fixed penalty notices | Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 | Senior Officer Responsible for Operational Services |
| 9. | Power to transfer enforcement functions to another enforcement agency | Smoke free (Premises and Enforcement) Regulations 2006 | Senior Officer Responsible for Operational Services |

FUNCTIONS RELATING TO PLANNING

In this section of the scheme of delegation the following abbreviations have been applied:
 PCttee means the Planning and Licensing Committee
 CM means the Cabinet Member for Planning
 HLS means the Senior Officer Responsible for Legal Services
 SOP means the Senior Officer Responsible for Planning

| No | FUNCTION | RESPONSIBILITY/ DECISION MAKER | EXCEPTIONS AND CONDITIONS |
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| Unless specified otherwise, titles in italics in the third column indicate full delegation to the named officer | | | |
| 1. | General | | |
| | To respond on behalf of the Council to consultations from Government, Government agencies, the Local Government Association, other local authorities (except <i>with respect to</i> planning applications and similar consultations - see below), professional bodies and all other similar organisations, relevant to the work of the Committee and so long as: (i) it is not possible to assess and present the matter to the Committee | SOP | |

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| | <p>within the prescribed time for response; or,</p> <p>(ii) the matter is considered to be of a relatively minor or straightforward nature not requiring prior debate by the Committee.</p> | | |
| | <p>The scope of delegation may be amended by a majority of the Members present at a meeting of the Planning and Licensing Committee to which a report is submitted and there will be no requirement to comply with the procedure for amending the constitution. Changes to officer titles, onward delegations and minor drafting changes can be made without referral back to the Committee.</p> | SOP | |
| 2. | Right of Entry onto Land | | |
| | <p>To exercise the Council's powers with respect to rights of entry onto land and into buildings under the relevant planning, historic building conservation, environmental and Local Government (Miscellaneous Provisions) legislation.</p> | SOP | |
| 3. | Dealing with Planning and other related Applications and Notifications | | |
| A. | <p><i>To determine all applications for planning permission or consents (with or without planning conditions or obligations), all Planning Applications for planning permission or consents, including Listed Building Consent, TPO applications, Permissions in Principle, Technical Details Consent.</i></p> <p><i>The following provisos apply:</i></p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation (including Regulations), Government guidance and circulars (including the NPPF), and all other relevant material considerations.</p> <p>(ii) The relevant Ward Member(s) and Town / Parish Council / Parish Meeting must be notified either through the electronic planning alert system.</p> | SOP | <p><i>Types of applications NOT to be determined under delegated powers</i></p> <p>(a) Applications submitted by or on behalf of the Council, for development on Council-owned land.</p> <p>(Any application required in connection with flood prevention/alleviation schemes is exempt from the requirement to be presented to the PCttee).</p> <p>(b) Applications</p> |

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| | <p>(iii) Any Member(s) can request that an application be referred to the PCttee for determination and must provide Planning reasons for the referral.</p> <p>(iv) If an application is proposed for refusal, or if any written objection to an application is received but it is proposed to permit the application, the Ward Member(s) must be notified by the Case Officer and given seven calendar days within which s/he may require that the application be referred to the PCttee for determination. If no response is received within the seven day period, the delegated decision can be made as notified to the Ward Member(s).</p> <p>(v) For applications submitted by or on behalf of an employee of the Council (or their partner, close relative or their partner's close relative) in which they have a beneficial interest (i.e. they own the land or are a prospective purchaser), then the Officer/consultant shall declare their interest and shall have no involvement in the processing of the application/consent. The application must be the subject of consultation with the Ward Member(s) with the exception of applications made by non-Planning staff (excluding those in politically restricted posts) for Householder development.</p> <p>(vi) If a Permission in Principle application or Technical Details Consent cannot be brought to PCttee due to time constraints, the application/Consent should be the subject of consultation with the Ward Member(s). The final decision lies with the Senior Officer responsible for Planning.</p> | | <p>submitted by or on behalf of a Member of the Council or by a close relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in), which must be drawn to the attention of the Senior Officer responsible for Planning.</p> <p>(c) Applications where the intended decision would be a significant departure from the provisions of the approved or draft development plan or other approved or adopted Council Planning policies or Supplementary Planning Guidance.</p> |
| B. | <p>Notifications</p> <p><i>The following provisos apply:</i></p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable,</p> | SOP | <p><i>Types of notifications NOT to be determined under delegated powers</i></p> <p>(a) Notifications</p> |

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| <p>and to legislation (including Regulations), Government guidance and circulars (including the NPPF), and all other relevant material considerations.</p> <p>(ii) The relevant Ward Member(s) and Town / Parish Council / Parish Meeting must be notified through the electronic planning alert system, with the exception of tree works notifications, which are subject to consultation with the Ward Member(s) in any case where the officer intends serving a TPO or an objection has been received.</p> <p>(iii) Any Member(s) can request that a notification be referred to the PCtee for determination and must provide Planning reasons for the referral.</p> <p>(iv) If it is proposed to raise objections to (or to refuse) a notification, or if any written objection to an notification is received but it is proposed to permit (or raise no objections to) the notification, the Ward Member(s) must be notified by the Case Officer and given seven calendar days within which s/he may require that the notification be referred to the PCtee for determination. If no response is received within the seven day period, then the delegated decision can be made as notified to the Ward Member(s).</p> <p>(v) All notifications submitted by or on behalf of an employee of the Council (or their partner, close relative or their partner's close relative) must be the subject of consultation with the Ward Member(s).</p> <p>(vi) If a notification cannot be brought to PCtee due to time constraints, the notification should be the subject of consultation with the Ward Member(s). The Senior Officer responsible for Planning will have discretion to determine proposals where objections are received relating to submissions that have strict, statutory time limits for making decisions or taking action.</p> | | <p>submitted by or on behalf of the Council, for development on Council- owned land.</p> <p>(Any notification required in connection with flood prevention/alleviation schemes is exempt from the requirement to be presented to the PCtee).</p> <p>(b) Notifications submitted by or on behalf of a Member of the Council or by a close relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in), which must be drawn to the attention of the Senior Officer responsible for Planning.</p> |
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| C. | <p>Requests for Prior Approval</p> <p>The following provisos apply:</p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation (including Regulations), Government guidance and circulars (including the NPPF), and all other relevant material considerations.</p> <p>(ii) The relevant Ward Member(s) and Town / Parish Council / Parish Meeting must be notified through the electronic planning alert system.</p> <p>(iii) Any Member(s) can require that a request for Prior Approval be referred to the PCttee for determination and must provide Planning reasons for the referral.</p> <p>(iv) If a request for Prior Approval is proposed for refusal, or if any written objection is received but it is proposed to permit, the Ward Member(s) must be notified by the Case Officer and given three calendar days within which s/he may require that the request for Prior Approval be referred to the PCttee for determination. If no response is received within the three day period, then the delegated decision can be made as notified to the Ward Member(s).</p> <p>(v) All requests for Prior Approval submitted by or on behalf of an employee of the Council (or their partner, close relative or their partner's close relative) must be the subject of consultation with the Ward Member(s).</p> <p>(vi) If the request for Prior Approval cannot be brought to PCttee due to time constraints, the request should be the subject of consultation with the Ward Member(s). The Senior Officer responsible for Planning will have</p> | | <p>Types of requests for Prior Approval NOT to be determined under delegated powers</p> <p>(a) Requests for Prior Approval submitted by or on behalf of the Council, for development on Council- owned land.</p> <p>(Any request for Prior Approval required in connection with flood prevention/alleviation schemes is exempt from the requirement to be presented to the PCttee).</p> <p>(b) Requests for Prior Approval submitted by or on behalf of a Member of the Council or by a close relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in), which must be drawn to the attention of the Senior Officer responsible for Planning.</p> |
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| | discretion to determine proposals where objections are received relating to submissions that have strict, statutory time limits for making decisions or taking action. | | |
| D. | <p><i>Other Types of Application, Notification and Consultations</i></p> <p><i>This includes</i></p> <ul style="list-style-type: none"> • <i>Non-material Amendments</i> • <i>Compliance with conditions (Technical Details Consent)</i> • <i>Certificate of Lawfulness of Proposed Use or Development</i> <p>The following provisos apply:</p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation (including Regulations), Government guidance and circulars (including the NPPF), and all other relevant material considerations.</p> <p>(ii) Consultation with the relevant Ward Members and Town / Parish Councils / Parish Meetings is discretionary.</p> <p>(iii) In respect of this category (D), condition compliance applications (Technical Details Consent) will be processed in accordance with the guidance outlined in section 3.1(iv). However, time constraints may not be sufficient to allow referral to Committee and therefore, in cases when the Ward Member(s) do not agree with the Officer recommendation, then the Senior Officer responsible for Planning will make the final decision.</p> | SOP | |
| E. | <p><i>Applications for Certificates of Lawful Use or Established Development (Section 191)</i></p> <p><i>The following provisos apply:</i></p> <p>(i) The Ward Member(s) and Town / Parish Council / Meeting, must be notified of all Section 191 applications.</p> | SOP | Subject to prior consultation with HLS |

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| | (ii) Representations will be considered; however, there is no provision to allow this application type to be referred to PCttee for determination. | | |
| | NOTE: If the delegated decision was contrary to the views of a Town / Parish Council / Meeting, a copy of the notification sent by the Case Officer to the Ward Member(s) will be sent to the Town / Parish Council / Meeting, following determination. | | |
| 4. | Power to Decline to Determine Application for Planning Permission. | SOP | |
| 5. | Environmental Impact Assessments | | |
| | Power to carry out all publicity and other actions related to the relevant Environmental Impact Assessment (EIA) legislative framework. (Section 3.4 provides details on the delegated powers relating to EIA screening and scoping opinions.) | SOP | |
| | Authority to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and to offer screening and scoping opinions. | SOP | |
| 6. | (Section 106) Planning Agreements/Obligations | | |
| | To negotiate and finalise the Heads of Terms of Section 106 agreements, (agreements regulating development or use of land), Deeds of Variation and other planning agreements, including the details thereof. | SOP | Subject to prior consultation with HLS |
| | To determine applications for the modification or discharge of planning obligations. | SOP | (a) Applications which involve the proposed variation or discharge of a section 106 deed that materially differs from the Council's standard models or departs from the reasons for the original imposition of the obligation. (b) Prior consultation with: HLS. (c) Subject to the same consultation and other |

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| | | | requirements as planning applications |
| 7. | Disposal of Applications | | |
| | To finally dispose of applications for planning permission, in accordance with the relevant planning legislation. | SOP | Prior consultation with Ward Member(s) |
| 8. | Planning Appeals | | |
| | To consider information, including amended plans, submitted by appellants and vary the Council's case accordingly. | SOP | If circumstances dictate, and following reasonable endeavours to consult, in consultation with the HLS, the Chair (Vice-Chair) and Ward Member(s). |
| 9. | Enforcement of Planning Control | | |
| | <p>To exercise the Council's enforcement powers, including the serving of notices, under the relevant planning, listed building, control of advertisement and tree legislation, including decisions to take no remedial action when unauthorised work has been undertaken but no application is forthcoming (within a timeframe deemed appropriate by officers determined by the circumstances of the case including the Council's Enforcement Policy).</p> <p>When appropriate, those undertaking development/works will also be advised that a formal response can be obtained through the submission of an application under section 191 or 192 of the Town and Country Planning Act 1990, as amended.</p> <p>A. All assessments as to whether it is expedient to take remedial action in relation to a breach of control will take into account the Council's Enforcement Plan and the following provisos:</p> <p>i. All decisions must pay due regard to any relevant provisions of the Development Plan, where applicable, and to legislation (including Regulations), Government guidance and circulars (including the NPPF), and all</p> | SOP | Prior consultation with: HLS when required |

| | | | |
|-----|--|-----|--|
| | <p>other relevant material considerations.</p> <p>ii. When necessary, consultation will be undertaken to establish whether harm has resulted and if there are expediency reasons for taking action.</p> <p>iii. All cases involving an employee of the Council (or their partner, close relative or their partner's close relative), must be the subject of consultation with the Ward Member(s) and Chair/Vice-Chair of PCttee.</p> | | |
| | <p>To exercise the Council's enforcement powers to prosecute or serve an official caution under the relevant planning, listed building, control of advertisement and tree legislation and pursue proceedings in the civil courts where appropriate.</p> <p>Where prosecution or the serving of an official caution is undertaken, or civil proceedings are pursued, such matters should be reported to the Planning and Licensing Committee.</p> | HLS | |
| | The withdrawal of Enforcement Notices (including Stop Notices and Breach of Condition Notices) which have served their purpose or which are no longer relevant or necessary. | SOP | Prior consultation with: HLS |
| | To sign duly authorised Enforcement Notices, Listed Building Enforcement Notices, Planning Contravention Notices, Stop Notices, Section 215 Notices and Breach of Condition Notices. | SOP | Requisition Notice within statutory period and Non-compliance with Breach of Condition Notices in consultation with HLS. |
| 10. | Article 4 Directions | | |
| | To serve Article 4 Directions. | SOP | |
| | Power to withdraw Article 4 Directions where it is no longer expedient to remove PD rights | SOP | |
| 11. | Rights and Way and Highways | | |
| | To deal with consultations from Gloucestershire County Council on | SOP | |

| | | | |
|------------|--|-----|--|
| | Definitive Map Orders, Public Path Orders and reviews of Roads used as Public Paths – there is no requirement for Officers to undertake consultation as, if necessary, this will be done by Officers of the County Council. | | |
| 12. | Trees and Forestry | | |
| | To exercise the Council's powers relating to the serving, revoking, varying and confirming of Tree Preservation Orders (TPOs) under the relevant legislation. | SOP | |
| | To serve Tree Replacement Notices | SOP | |
| | To respond to consultations from the Forestry Authority on grant applications and Tree Felling Licences (subject to there being no objections). | SOP | |
| | Authority to determine: any application to carry out work to a tree(s) subject to a Tree Preservation Order (subject to consultation with the Ward Member(s) in any case where the officer is recommending refusal or where objections have been received) any notification to carry out work to a tree within a Conservation Area (subject to consultation with the Ward Member(s) in any case where the officer intends serving a TPO or an objection has been received) | SOP | |
| | To exercise the Council's powers under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to dangerous trees, including rights of entry onto land and into buildings | SOP | |
| | To determine Hedgerow Removal Notices and ancillary matters | SOP | |
| | Authority to deal with complaints about High Hedges under Part 8 of the Anti-Social Behaviour Act 2003 | SOP | |
| 13. | Listed Buildings at Risk | | |

| | | | |
|-----|---|-----|------------------------------------|
| | Where urgent action is necessary, to exercise the Council's powers under the following Sections of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA Act). <ul style="list-style-type: none"> • Sections 3 and 4 (PLBCA Act) (Building Preservation Notices); • Section 54 (PLBCA Act) (urgent works for the preservation of an unoccupied listed building); • Section 55 (PLBCA Act) (recovery of costs for works carried out under Section 54). | SOP | Prior consultation with: HLS. |
| | Powers to serve a Repairs Notice and to acquire a listed building in need of repair under Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990. | SOP | Prior consultation with: HLS & CM. |
| 14. | Amendments to the Statutory List of Buildings of special architectural or historic interest | | |
| | To respond to consultations from the relevant organisations or Government departments on potential amendments to the Statutory List of Buildings of Special Architectural or Historic Interest. | SOP | |
| | To propose amendments to the Statutory List of Buildings of Special Architectural or Historic Interest to the relevant organisations or Government departments. | SOP | |

(END)

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Guidance for Councillors and Officers

1. Purpose of this Protocol

This protocol sets out guidance for both officers and councillors when determining Planning applications, specifically those which come before the Planning and Licensing Committee for determination.

It sets out the role of the Planning and Licensing Committee and its members, how the Committee will operate and when and how it takes decisions.

2. The Planning and Licensing Committee

2.1 The Development Management role of the Planning and Licensing Committee

The Development Management role of the Planning and Licensing Committee is to manage development and other operations in the District, so as to provide a satisfactory physical, social and economic environment for the benefit of the whole community by exercising the Council's powers under the Town and Country Planning Acts, and various legislative provisions concerned with the protection of the environment, in accordance with the approved development plan, the policy framework, the Local Plan and the Council's relevant adopted strategies including the strategies for Climate Emergency and Green Economic growth, subject to any agreed scheme of delegation to officers.

As a quasi judicial Committee, members of the Committee are required to be non-partisan and to represent the entire district. The practice of political whipping has no place in the decisions of the Planning and Licensing Committee, because decisions must be made on material Planning considerations.

The Committee may authorise the enforcement of Planning control and, in conjunction with the Senior Officer responsible for Planning, has the responsibility for enforcing compliance, and the Committee may authorise any remedial action including prosecution that is permissible by law to achieve compliance.

2.2 Statutory functions of the Committee

The Committee is responsible for those functions allocated to the Council under the statutory provisions (to include statutory instruments, government circulars and planning policy statements and guidance) for control over development as defined in section 55(1) of the Town and Country Planning Act 1990 or any replacement legislation within the administrative district or that will have an impact on the district, save those matters delegated to officers and included in the Scheme of Delegation.

Members involved in the Planning process shall at all times comply with the requirements of this protocol, which are in addition to the Code of Conduct for members.

2.3. Referring an application to Committee

Members are expected to engage with Planning officers to resolve issues at every stage and may query interpretations of policy, and request extra detail.

On applications where one or more objections have been received, the officer will consult the Ward Member prior to determining the application, providing a calendar week for response.

If no response is received from the Ward Member within the calendar week, the Senior Officer responsible for Planning can proceed to determine the application.

If Members are going to be absent or unable to respond to such consultations, they should ensure that they have an appropriate Out of Office message, which includes details of their nominated deputy whom the case officer can consult in their absence. Where no such nomination is made but it is clear that the Member is away or unable to reply, the case will be referred to the Chair or Vice Chair of the Committee.

Where a Member believes, for reasons related to material Planning considerations, an application should be referred to the Planning and Licensing Committee, they can request the application be referred to the Committee by emailing the case officer. The email must clearly detail the Planning reasons why the matter should be referred to the Committee. When making referrals, Members are reminded that they are expected to attend the Committee meeting to present their reasons for referral.

Any Member can refer any application within the district to the Committee. However, where a Member seeks to refer an application for a site located outside of their own ward, they should notify the relevant Ward Member(s) of their request, and will be required to present their case at Committee.

Applications being considered for referral to the Planning and Licensing Committee will be collated for a meeting three weeks before each forthcoming Committee meeting (the Schedule Review Panel). This Panel will include the Chair, Vice-Chair, the Lead Officer for the forthcoming meeting, the legal officer, and (solely for purposes of presentation and to answer any questions) the case officers for applications being considered for referral.

At this Panel, the Chair, Vice-Chair and Lead Officer will review the referrals and will consider which applications should proceed to Committee. Referrals which do not contain valid Planning reasons will not be passed to Committee. The final responsibility for the decision will lie with the Senior Officer responsible for Planning.

Following this meeting, the conclusion of the Review Panel will be circulated to all Members and the Committee agenda will be created for distribution and all relevant parties will be notified.

Referral process flowchart: [Need to insert chart here]

2.4. Officers Report

All applications will be presented in the form of an Officer report which will deal with all relevant documents in connection with an application. Any additional information received after the preparation of that report up to 12.00 hrs on the day before the Committee meeting will also be brought to the attention of the Committee if it raises new and relevant material planning matters. This is referred to as late material. Papers received after that time, at the discretion of the Chair, will normally be discounted since time will not be available to check their accuracy or to give consideration to their implications.

If any Member receives material from or on behalf of an applicant or third party in connection with an application before a Committee, they should establish from the Planning Officers whether the material has been received by them. If it has not, they should make it available as soon as possible to the Planning Department.

2.5. Public Speaking at Planning and Licensing Committee

The purpose of permitting public speaking is to enable those affected by proposed developments to inform the Committee of their viewpoint and to contribute to an open, fair and transparent debate on applications in which they have an interest. All public speaking will be carried out in accordance with any guidance issued by the Council.

Guidance will be provided for Members of the public who wish to speak at planning meetings and practical assistance will be provided for persons undertaking public speaking by Council officers at the meeting. All public speakers should provide a written copy of their speech to Democratic Services ahead of the meeting.

Public speaking is limited to three minutes per speaker. For each application the applicant/agent and one supporter will be permitted to speak together with one objector and one representative of the town/parish council. Public speaking will take place in the following order:

- Town/Parish Council;
- Objector;
- Supporter;
- Agent/Applicant.

Upon the conclusion of public speaking, the Ward Member will be invited to speak for up to five minutes

The Member that referred an application to Committee will be expected to attend and will be invited to speak after the conclusion of the debate on the application they brought.

Ward Members who serve on a Town or Parish Council will not present the Town or Parish Council's comments during Public Speaking. If there is no representative available to attend a written submission, of up to 450 words, can be provided and will be read out by the Democratic Services officer.

2.6. Questions and Proposals

Planning debates have two phases - Questions and Proposals. This is required as often expert opinions need to be queried or technical details clarified.

During the Questions section, Committee Members will have the opportunity to ask questions of officers and attending consultees.

The Chair will decide when the Questions section for an application ends.

During the Proposals phase, Committee Members will have an opportunity to make their points known to the Committee.

Any amendments, alternative Proposals or conditions will be made during this phase, following the usual rules of debate.

2.7. Site Inspection Briefings (SIBs)

Site inspections are usually called for by the Case Officer for a large development and held prior to the application coming before the Committee. However, in certain circumstances the Committee can vote on a proposal made by a Committee Member for an SIB. Members need to be aware that this would delay decision-making for another month and such a proposal should not be made lightly.

All site visits must be justified on Planning grounds and the strict criteria for holding site inspections are as follows:

- the character or appearance of the development itself is a fundamental planning consideration;

- a judgement is required on visual impact; or

- the setting and surroundings are fundamental to the determination or to the conditions being considered.

They should not be held when inspection of the site is irrelevant to the material conditions.

SIBs should be used with discretion, must be properly justified and have a significant expected benefit, particularly in light of the cost of SIBs and the increasing availability of visual technology.

SIBs may be either Full Committee, or Panel, with membership of the Panel set on a rota basis. Ward Members will also be invited to attend.

If access to private land is necessary for a site visit, officers will secure the prior agreement of the landowner, explaining that an SIB is a private meeting of the Council, and that third parties must not be present at the Briefing.

The purpose of the site visit is fact finding. Officers have a duty to point out all relevant features of the site and surroundings. The attending officer will describe the proposal and draw attention to

relevant features. The officer will not discuss the merits or otherwise of the application ahead of formal publication of the report regarding the application. Members will be able to see the physical features of the site and ask questions, through the Chair, of the officers to seek clarification.

The visiting party will stay together as a group.

Conduct of Visits

- Visits will be conducted in a formal manner.
- Chair or Vice-Chair will open the meeting, and advise Members of purpose and conduct.
- Officers will highlight issues relevant to site inspection. If issues are raised which necessitate consultation with the applicant or his agent, this should be raised after the close of the meeting and the outcome reported to the subsequent Committee.
- Chair or Vice-Chair to close meeting.

General Matters

- There will be NO debate about the merits of the application and no decision will be made.
- No formal notes will be made; an officer will orally update the Committee on any new findings or further developments when it next meets to consider the application, although a record of attendance will be maintained.
- No hospitality will be accepted.

Members who have a disclosable pecuniary interest in an application are precluded from attending any site visit on that matter. In addition, if an interest becomes apparent during a site visit, the Member should immediately declare it to the Chair and withdraw from the site. Members with an other interest in an application subject to a site visit must declare the interest but may continue to attend the site.

2.8. Voting at Committee

It is permissible to vote on an application only if you have been present for the whole of the presentation of, and discussion on, the application.

Note: In the event that there is a lawful requirement for the meeting is being held remotely, the usual rules in relation to quorum will continue to operate. If there is a drop out of connectivity the Chair will pause proceedings until Members are reconnected. Prior to the vote, Democratic Services will check that Members have heard all of the debate.

2.9. Decisions Contrary to Officer Recommendations or to Development Plan Policies

Should the Planning Committee propose to vote against an Officer Recommendation, it will be for the Members to clearly set out their reasons for doing so and these should be clearly specified in the resolution of the Committee and recorded in the Minutes.

2.10 Action on Decisions Taken Contrary to Professional Advice

In cases where an Officer Recommendation for approval has been voted against by Committee and an appeal is lodged:

- officers shall give full support to external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves;
- officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached (for clarity, not in the case of a Public Inquiry);
- where an Informal Hearing is to be held, with no cross-examination, officers may give evidence themselves where the Code of Professional Conduct is not breached, but this will normally be only if the officer concerned has not been involved in formulating the original recommendation;
- officers must give full support to Member decisions which are appealed using the Written Representations procedures.

2.11. Committee unable to determine

In any case where the Committee have voted both for and against an application, and both votes have been lost, the Committee will be considered as in 'deadlock' and the application will be referred to Full Council for determination.

2.12. Non Members of Committee Attending Meetings

Councillors may attend meetings of the Council's Planning and Licensing Committee even if they are not a Member unless they have a Disclosable Pecuniary Interest. They may speak on applications in their ward in their capacity as the Ward Member before and/or after the debate, but they cannot vote. When they attend any Planning and Licensing Committee, they should not sit in the public

gallery, but in the place reserved in the Council Chamber for Members of the Council who are not Members of the Committee.

3. Advice and Guidance for Members

3.1. Training

As a Member of a Planning and Licensing Committee, they must undertake introductory and planning procedures training before they can serve on the Committee.

Committee Members will also undertake supplementary training on at least an annual basis.

3.2. The Role of Members

In making decisions on planning applications, Members will:

- act fairly and openly

- approach each application with an open mind

- carefully weigh up all the material planning considerations

- avoid inappropriate contact with interested parties

- ensure that valid reasons for decisions are clearly stated.

Members will be free to vote on Planning applications as they consider appropriate (i.e. without an explicit or implicit Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act, they will base their decisions on the provisions of the Development Plan (and all material planning considerations).

They may not give instructions to Officers nor may they place pressure on Officers in order to secure a particular recommendation on an application. They may request extra information about an application from the case officer to help them in their deliberations.

They will not use their position improperly to confer or secure for themselves, or for any other person, an advantage or disadvantage.

3.3 Predetermination and Predisposition

Members must consider each application on its merits and must not do anything which may preclude them from taking part in the determination process. They must only make their decision after reading the report, hearing the Officer's presentation and any points of clarification and all the arguments on both sides.

It is acceptable to have a legitimate predisposition in relation to an application. A Member who has expressed a preference for a particular outcome, will not be taken to have a closed mind when making their decision, provided that a fair-minded observer would think that they were open to changing their mind in the light of different or additional information, advice or evidence presented.

A Member may however be considered as predetermining an application if they have acted as an advocate for the application, including being significantly involved in the preparation or submission of the application or an active supporter or objector of the application.

In any circumstance where a Member is unclear they should consult the Monitoring Officer.

3.4. Discussions with Applicants

Local authorities are encouraged to enter into pre-application discussions with potential applicants. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public and especially objectors, as prejudicing the Planning decision making process. In order to allay such perceptions, application discussions should take place within the clear guidelines given below.

Pre-application meetings with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They will normally only involve Officers. Members should not involve themselves in such meetings unless an appropriate Senior Officer is present. It will be made clear at pre-application meetings that:

- Officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Development Plan and other adopted Council policy (unless there are clear material considerations that would justify consideration of a development contrary to policy;)
- no decisions may be made or advice given which would bind or otherwise compromise the Planning and Licensing Committee of the Council (or the Senior Officer responsible for Planning if delegated to make the decision); and
- for all pre-application meetings, a note of the discussion (not a formal advice note) will be taken by the Planning Officer, including details of those present, and will be made available for public inspection, subject to the usual rules about access to information. At least one appropriate Planning Officer will be present at all such meetings.

Members may, following discussion with the appropriate Planning Officer, take part in organised post-submission meetings with applicants or other parties. A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to

information. At least one Planning Officer will be present at all such meetings, unless the meeting is a formal meeting of a Town or Parish Council (including its Planning Committee).

If Members do engage in pre-application discussions with developers, observe the rules on lobbying and observe the do's and don'ts contained in *Positive Engagement – A Guide for Planning Councillors (2008)*

3.5. Lobbying

Lobbying or seeking to influence a decision is a normal and perfectly proper part of the political process. However, it can lead to impartiality being called into question and the need to declare publicly that an approach of this nature has taken place. Problems could arise if Members indicate or give the impression of support or opposition to a development proposal or particular planning application, or declare their voting intention to anyone, before a decision is to be taken. To do so without all of the relevant information (including the officer report) and views to hand would be unfair and would prejudice the impartiality of the decision-making process, although the Localism Act does allow a Member to express a particular predisposed position.

Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Planning and Licensing Committee. It is an essential part of the democratic process that Members of the public should be able to make their views known to them. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, they will:

- avoid discussing with an applicant or any other person their thoughts about the merits and flaws of a planning application or proposed development;

- pass any written material provided to them to the case officer dealing with the application for inclusion and evaluation in their report;

- not make it known in advance of the consideration of the application by Committee whether they support or oppose a proposal unless they accept that this will mean that they may not take part in the decision;

- restrict their response to giving procedural advice, and make it clear that that is all they are prepared and allowed to do;

- direct lobbyists or objectors to the case officer and advise that their views should be expressed in writing, and

- advise the Senior Officer responsible for Planning as soon as possible of the existence of any substantial lobbying activity.

Members should avoid signing any Petition on a matter likely to be determined by the Planning and Licensing Committee.

If a Member expresses publicly a final view on an application prior to the meeting at which a decision is to be taken, they will be required to withdraw from the meeting whilst the application is discussed and determined. Public expression of a view would include, for example, making a statement to the press of their firm attitude to an application, or in any document to be made publicly available, at a meeting of the Council or a Town or Parish Council (or one of their Committees), or in any situation where the view expressed might reasonably be expected to gain wider circulation.

3.6 Planning and Licensing Committee Members who serve on Parish and Town, or County Councils

Some Councillors will be Members of Parish or Town Councils, or of Gloucestershire County Council (collectively 'Other Council'), as well as Cotswold District Council Councillors. This situation can also present problems where the Other Council is consulted on Planning applications. It is quite conceivable that a Councillor in this position could finally vote in a different way when all the relevant information is made available in the Officer's report.

In order to avoid any potential conflict, it would be preferable for Councillors not to contribute to Other Councils' considerations of Development Management matters. Members who do serve on Other Councils may find it helpful to make the following statement to clarify their position when regarding Development Management matters:

While I will consider this matter as a Member of this Council, I am also on the Planning and Licensing Committee of Cotswold District Council and may be called upon to vote on any application that this council responds to. In the light of additional information received, I may not vote at the District Council's Planning and Licensing Committee as I will in this meeting.

See Section 2.5 above for further advice for Members who wish to speak on an application, who are also a Member of an Other Council.

3.7 Hospitality

As a Member of the Council, they are discouraged from receiving hospitality generally, but are expressly prohibited from receiving any gifts or hospitality from people with an interest in a Planning proposal.

4. Rules around certain types of application

4.1 Planning Applications from a Member or their relatives

All applications which are submitted by or on behalf of a Member of the Council in their private capacity or by a close relative or their partner (as defined in the Code of Conduct for Members) or which relate to land which they own and/or have a beneficial interest in, must be drawn to the attention of the Senior Officer responsible for Planning, and will be reported to the Planning and Licensing Committee for a decision, in accordance with the Scheme of Delegation to Officers.

They must not speak in support of, or take part in the determination of, an application as described above. They must declare an Interest and leave the meeting and not seek to influence any decision made. They may, however, appoint an agent who can speak, subject to the rules of Public Speaking at Meetings of the Planning and Licensing Committee.

If an application is submitted by a close relative or partner (as defined in the Code of Conduct for Members) of a Member of the District Council, the Member should not speak in support of, or take part in the determination of, the application. The applicant may speak at Committee meetings subject to the rules of Public Speaking at Meetings of Planning and Licensing Committee or appoint an agent to speak on their behalf.

4.2 Planning Applications submitted by the Council itself

All applications which are submitted by the Council itself must be reported to the Planning and Licensing Committee for a decision, in accordance with the Scheme of Delegation to officers. However, once the principle of development has been established, subsequent applications to discharge conditions or for minor variations may be determined in accordance with the Scheme of Delegation.

4.3 Applications submitted by Officers

An application submitted by or on behalf of an employee of the Council or Publica, will be reported for determination by the Committee. Exceptions may be made for non-planning staff (excluding those in politically restricted posts) in accordance with the Scheme of Delegation.

Approved by Full Council 18.11.2020.

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Revised Guidance for Councillors and Officers

1. Purpose of this Protocol

This Protocol sets out guidance for both Officers and Councillors when determining Planning applications, specifically those which come before the Planning and Licensing Committee for determination.

This should be read in conjunction with:

Part C of the Council's Constitution - "Responsibility for Functions", which sets out the role of the Planning and Licensing Committee, and the "Non-Executive Scheme of Officer Delegation".

This Protocol sets out how the Committee will operate and when and how it takes decisions.

2. The Planning and Licensing Committee

2.1 The Development Management role of the Planning and Licensing Committee

As a quasi-judicial Committee, members of the Committee are required to be non-partisan and to represent the entire District. The practice of political whipping has no place in the decisions of the Committee, because decisions must be made on material Planning considerations.

2.2 Statutory functions of the Committee

The Committee is responsible for those functions allocated to the Council under the statutory provisions (to include Statutory Instruments, Government Circulars and Planning Policy Statements and Guidance) for control over development as defined in section 55(1) of the Town and Country Planning Act 1990 or any replacement legislation within the administrative District or that will have an impact on the District, save those matters delegated to Officers and included in the Scheme of Delegation.

Members involved in the Planning process shall at all times comply with the requirements of this Protocol, which are in addition to the Code of Conduct for Members. Members can seek advice from the Monitoring Officer or Deputy Monitoring Officer if guidance on the Protocol in conjunction with the Code of Conduct is required.

2.3. Referring an application to Committee

Members are expected to engage with Planning Officers to resolve issues at every stage and may query interpretations of Policy, and request extra detail.

On applications where one or more valid planning objections have been received, the Officer will consult the Ward Member prior to determining the application, providing a calendar week for response.

If no response is received from the Ward Member within the calendar week, the Senior Officer responsible for Planning can proceed to determine the application.

If Members are going to be absent or unable to respond to such consultations they must ensure that they have an appropriate 'Out of Office' message which includes details of their nominated deputy whom the Case Officer can consult in their absence. Where no such deputy is nominated and it is clear that the Member is away or unable to reply the case will be referred to the Chair or Vice Chair of the Committee who will respond in place of the Member within one calendar week.

Where a Member believes, for reasons related to material Planning considerations, an application should be referred to the Committee, they can request the application be referred to the Committee by emailing the Case Officer. The email must clearly detail the Planning reasons why the matter should be referred to the Committee. When making referrals, Members are reminded that they are expected to attend the Committee meeting to present their reasons for referral.

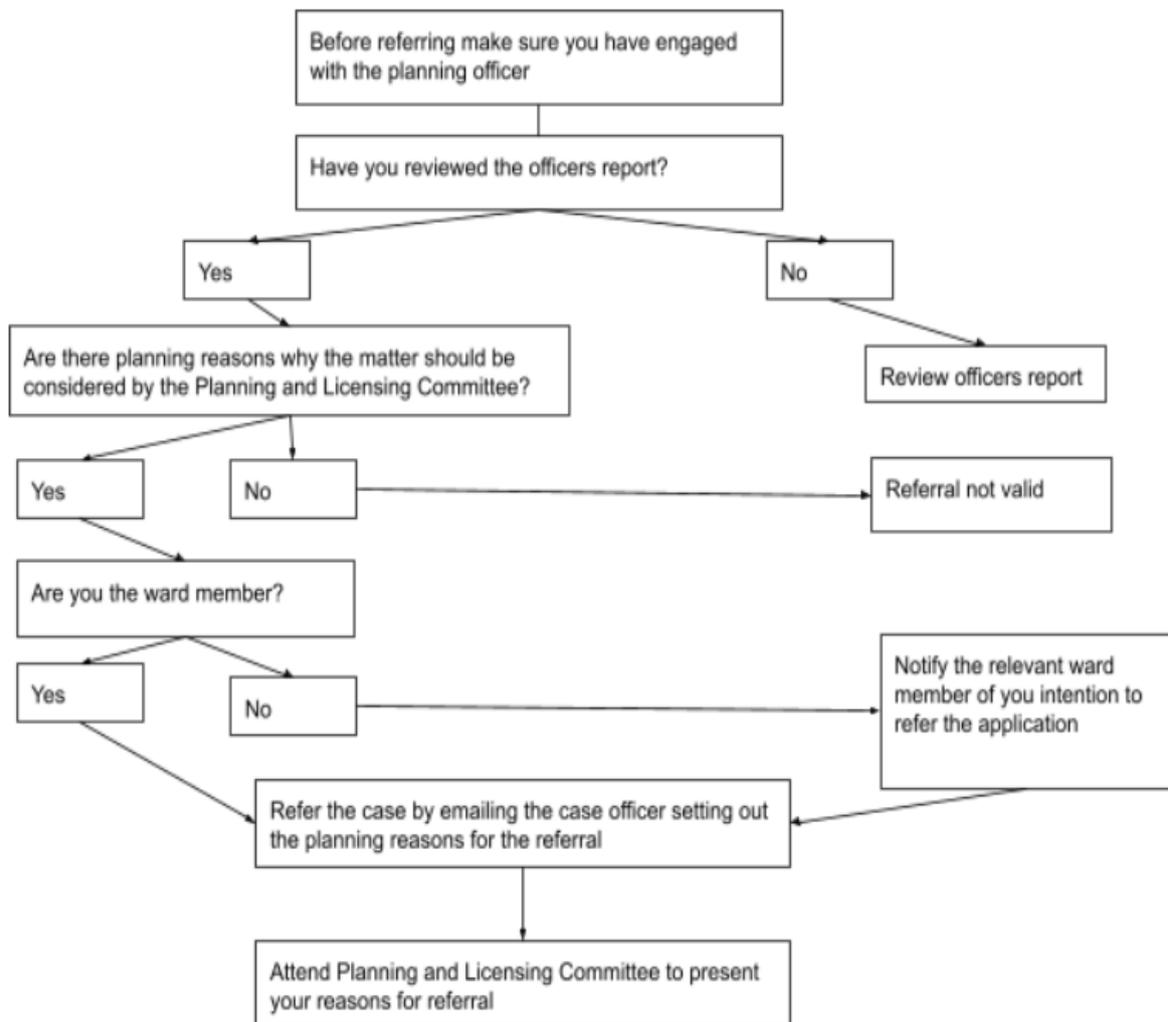
Any Member can refer any application within the District to the Committee. However, where a Member seeks to refer an application for a site located outside of their own Ward, they should notify the relevant Ward Member(s) of their request, and will be required to present their case at Committee.

Applications being considered for referral to the Planning and Licensing Committee will be collated for a meeting three weeks before each forthcoming Committee meeting (known as the Review Panel).

At the meeting of the Review Panel which comprises the Chair and Vice Chair of the Committee, the Lead Officer and the Interim Head of Legal Services, the Chair, Vice Chair and Lead Officer will review the referrals and will consider which applications should proceed to Committee. Referrals which do not contain valid Planning reasons will not be passed to Committee. The final responsibility for the decision will lie with the Senior Officer responsible for Planning.

Following this meeting, the Minutes of the Review Panel will be circulated to all Members and the Committee Agenda will be created for distribution and all relevant parties will be notified.

Referral process flowchart: [



2.4. Officers Report

All applications will be presented in the form of an Officer report which will deal with all relevant documents in connection with an application. Any additional information received after the preparation of that report up to 12.00 hrs on the day before the Committee meeting will also be brought to the attention of the Committee if it raises new and relevant material planning matters. This is referred to as Late Material. Papers received after that time, at the discretion of the Chair, will normally be discounted since time will not be available to check their accuracy or to give consideration to their implications.

If any Member receives material from or on behalf of an applicant or third party in connection with an application before a Committee, they should establish from the Planning Officers whether the material has been received by them. If it has not, they should make it available as soon as possible to the Planning Department.

2.5. Public Speaking at Planning and Licensing Committee

The purpose of permitting public speaking is to enable those affected by proposed developments to inform the Committee of their viewpoint and to contribute to an open, fair and transparent debate on applications in which they have an interest. All public speaking will be carried out in accordance with any guidance issued by the Council.

Guidance will be provided for members of the public who wish to speak at Committee meetings and practical assistance will be provided for persons undertaking public speaking by Council Officers at the meeting. All public speakers should provide a written copy of their speech to Democratic Services ahead of the meeting.

The Ward Member will be invited to speak for up to five minutes on the application.

The Member who referred an application to the Committee will be expected to attend the Committee meeting also and will be invited to speak on the application.

Public speaking is limited to three minutes per speaker. For each application the applicant/agent and one supporter will be permitted to speak together with one objector and one representative of the Town/Parish Council. Public speaking will take place in the following order:

- Town/Parish Council;
- Objector;
- Supporter;
- Agent/Applicant.

Ward Members who serve on a Town or Parish Council will not present the Town or Parish Council's comments during Public Speaking. If there is no representative available to attend, a written submission of up to 450 words can be provided and will be read out by a Democratic Services Officer.

2.6. Questions and Proposals

Planning debates have two phases - Questions and Proposals. This is required as often expert opinions need to be queried or technical details clarified.

During the Questions section, Committee Members will have the opportunity to ask questions of Officers and attending consultees.

The Chair will decide when the Questions section for an application ends.

During the Proposals phase, Committee Members will have an opportunity to make their points known to the Committee.

Any amendments, alternative Proposals or suggested Conditions will be made during this phase, following the usual rules of debate.

2.7. Site Inspection Briefings (SIBs)

Site inspections are usually called for by the Case Officer for a large development and held prior to the application coming before the Committee. However, in certain circumstances the Committee

can vote on a proposal made by a Committee Member for a SIB. Members need to be aware that this would delay decision-making for another month and such a proposal should not be made lightly.

All site visits must be justified on Planning grounds and the strict criteria for holding site inspections are as follows:

- the character or appearance of the development itself is a fundamental planning consideration;
- a judgement is required on visual impact; or
- the setting and surroundings are fundamental to the determination or to the conditions being considered.

They should not be held when inspection of the site is irrelevant to the material conditions.

SIBs should be used with discretion, must be properly justified and have a significant expected benefit, particularly in light of the cost of SIBs and the increasing availability of visual technology.

SIBs may be either Full Committee, or Panel, with membership of the Panel set on a rota basis. Ward Members will also be invited to attend.

If access to private land is necessary for a site visit, Officers will secure the prior agreement of the landowner, explaining that an SIB is a private meeting of the Council, and that third parties must not be present at the Briefing.

The purpose of the site visit is fact finding. Officers have a duty to point out all relevant features of the site and surroundings. The attending Officer will describe the proposal and draw attention to relevant features. The Officer will not discuss the merits or otherwise of the application ahead of formal publication of the report regarding the application. Members will be able to see the physical features of the site and ask questions, through the Chair, of the Officers to seek clarification.

The visiting party will stay together as a group.

Conduct of Visits

- Visits will be conducted in a formal manner.
- Chair or Vice-Chair will open the meeting, and advise Members of purpose and conduct.
- Officers will highlight issues relevant to site inspection. If issues are raised which necessitate consultation with the applicant or his agent, this should be raised after the close of the meeting and the outcome reported to the subsequent Committee.
- Chair or Vice-Chair to close meeting.

General Matters

- There will be NO debate about the merits of the application and no decision will be made.

- No formal notes will be made. An Officer will orally update the Committee on any new findings or further developments when it next meets to consider the application, although a record of attendance will be maintained.
- No hospitality will be accepted.

Members who have a Disclosable Pecuniary Interest in an application are precluded from attending any site visit on that matter. In addition, if an Interest becomes apparent during a site visit, the Member should immediately declare it to the Chair and withdraw from the site. Members with Another Interest in an application subject to a site visit must declare the Interest but may continue to attend the site.

2.8. Voting at Committee

It is permissible to vote on an application only if you have been present for the whole of the presentation of, and discussion on, the application.

Note: In the event that there is a lawful requirement for the meeting is being held remotely, the usual rules in relation to quorum will continue to operate. If there is a drop-out of connectivity the Chair will pause proceedings until Members are reconnected. Prior to the vote, Democratic Services will check that Members have heard all of the debate.

2.9. Decisions Contrary to Officer Recommendations or to Development Plan Policies

Should the Planning Committee propose to vote against an Officer Recommendation, it will be for the Members to set out clearly their reasons for doing so and these should be clearly specified in the resolution of the Committee and recorded in the Minutes.

2.10 Action on Decisions Taken Contrary to Professional Advice

In cases where an Officer Recommendation for approval has been voted against by Committee and an appeal is lodged:

- Officers shall give full support to external witnesses in preparing evidence for any Public Inquiry, short of giving evidence themselves;
- Officers will give evidence themselves only in exceptional circumstances where their Code of Professional Conduct is not breached (for clarity, not in the case of a Public Inquiry);
- where an Informal Hearing is to be held, with no cross-examination, Officers may give evidence themselves where the Code of Professional Conduct is not breached, but this will normally be only if the Officer concerned has not been involved in formulating the original recommendation;
- Officers must give full support to Member decisions which are appealed using the Written Representations procedures.

2.11. Committee unable to determine

In any case where the Committee has voted both for and against an application, and both votes have been lost, the Committee will be considered as in 'deadlock' and the application will be referred to Full Council for determination.

2.12. Non Members of Committee Attending Meetings

Councillors may attend meetings of the Committee even if they are not a member unless they have a Disclosable Pecuniary Interest. They may speak on applications in their Ward in their capacity as the Ward Member before the debate but they cannot vote. When they attend any meeting of the Planning Committee, they should not sit in the public gallery, but in the place reserved in the Council Chamber for Members of the Council who are not members of the Committee.

3. Advice and Guidance for Members

3.1. Training

As a member of the Committee, they must undertake introductory and planning procedures training before they can serve on the Committee.

Committee Members will also undertake supplementary training on at least an annual basis.

3.2. The Role of Members

In making decisions on planning applications, Members will:

- act fairly and openly
- approach each application with an open mind
- carefully weigh up all the material planning considerations
- avoid inappropriate contact with interested parties
- ensure that valid reasons for decisions are clearly stated.

Members will be free to vote on Planning applications as they consider appropriate (i.e. without an explicit or implicit Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act, they will base their decisions on the provisions of the Development Plan (and all material planning considerations).

They may not give instructions to Officers nor may they place pressure on Officers in order to secure a particular recommendation on an application. They may request extra information about an application from the Case Officer to help them in their deliberations.

They will not use their position improperly to confer or secure for themselves, or for any other person, an advantage or disadvantage.

3.3 Predetermination and Predisposition

Members must consider each application on its merits and must not do anything which may preclude them from taking part in the determination process. They must only make their decision after reading the report, hearing the Officer's presentation and any points of clarification and all the arguments on both sides.

It is acceptable to have a legitimate predisposition in relation to an application. A Member who has expressed a preference for a particular outcome, will not be taken to have a closed mind when making their decision, provided that a fair-minded observer would think that they were open to changing their mind in the light of different or additional information, advice or evidence presented.

A Member may, however be considered as predetermining an application if they have acted as an advocate for the application, including being significantly involved in the preparation or submission of the application or an active supporter or objector of the application.

In any circumstance where a Member is unclear they should consult the Monitoring Officer or Deputy Monitoring Officer.

3.4. Discussions with Applicants

Local Planning Authorities are encouraged to enter into pre-application discussions with potential applicants. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public and especially objectors, as prejudicing the Planning decision making process. In order to allay such perceptions, application discussions should take place within the clear guidelines given below.

Pre-application meetings with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They will normally only involve Officers. Members should not involve themselves in such meetings unless an appropriate Senior Officer is present. It will be made clear at pre-application meetings that:

- Officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Development Plan and other adopted Council policy (unless there are clear material considerations that would justify consideration of a development contrary to policy;)
- no decisions may be made or advice given which would bind or otherwise compromise the Committee of the Council (or the Senior Officer responsible for Planning if delegated to make the decision); and
- for all pre-application meetings, a note of the discussion (not a formal advice note) will be taken by the Planning Officer, including details of those present, and will be made available for public inspection, subject to the usual rules about access to information. At least one appropriate Planning Officer will be present at all such meetings.

Members may, following discussion with the appropriate Planning Officer, take part in organised post-submission meetings with applicants or other parties. A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to

information. At least one Planning Officer will be present at all such meetings, unless the meeting is a formal meeting of a Town or Parish Council (including its Planning Committee).

If Members do engage in pre-application discussions with developers, they must observe the rules on lobbying and observe the do's and don'ts contained in *Positive Engagement – A Guide for Planning Councillors (2008)*

3.5. Lobbying

Lobbying or seeking to influence a decision is a normal and perfectly proper part of the political process. However, it can lead to impartiality being called into question and the need to declare publicly that an approach of this nature has taken place. Problems could arise if Members indicate or give the impression of support or opposition to a development proposal or particular planning application, or declare their voting intention to anyone, before a decision is to be taken. To do so without all of the relevant information (including the Officer report) and views to hand would be unfair and would prejudice the impartiality of the decision-making process, although the Localism Act does allow a Member to express a particular predisposed position.

Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to them. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, they will:

- avoid discussing with an applicant or any other person their thoughts about the merits and flaws of a planning application or proposed development;
- pass any written material provided to them to the Case Officer dealing with the application for inclusion and evaluation in their report;
- not make it known in advance of the consideration of the application by Committee whether they support or oppose a proposal unless they accept that this will mean that they may not take part in the decision;
- restrict their response to giving procedural advice, and make it clear that that is all they are prepared and allowed to do;
- direct lobbyists or objectors to the Case Officer and advise that their views should be expressed in writing, and
- advise the Senior Officer responsible for Planning as soon as possible of the existence of any substantial lobbying activity.

Members should avoid signing any Petition on a matter likely to be determined by the Committee.

If a Member expresses publicly a final view on an application prior to the meeting at which a decision is to be taken, they will be required to withdraw from the meeting whilst the application is discussed and determined. Public expression of a view would include, for example, making a statement to the press of their firm attitude to an application, or in any document to be made publicly available, at a meeting of the Council or a Town or Parish Council (or one of their Committees), or in any situation where the view expressed might reasonably be expected to gain wider circulation.

3.6 Planning and Licensing Committee Members who serve on Parish and Town, or County Councils

Some Members will also be Members of Parish or Town Councils, or of Gloucestershire County Council (collectively 'Other Council'), as well as Cotswold District Council. This situation can also present problems where the Other Council is consulted on Planning applications. It is quite conceivable that a Member in this position could finally vote in a different way when all the relevant information is made available in the Officer's report.

In order to avoid any potential conflict, it would be preferable for such a Member not to contribute to Other Councils' considerations of Development Management matters. Members who do serve on Other Councils may find it helpful to make the following statement to clarify their position when regarding Development Management matters:

While I will consider this matter as a Member of this Council, I am also on the Planning and Licensing Committee of Cotswold District Council and may be called upon to vote on any application that this Council responds to. In the light of additional information received, I may not vote at the District Council's Planning and Licensing Committee as I will in this meeting.

See Section 2.5 above for further advice for Members who wish to speak on an application, who are also a Member of an Other Council.

3.7 Hospitality

As a Member of the Council, they are discouraged from receiving hospitality generally, but are expressly prohibited from receiving any gifts or hospitality from people with an interest in a Planning proposal.

4. Rules around certain types of application

4.1 Planning Applications from a Member or their relatives

All applications which are submitted by or on behalf of a Member of the Council in their private capacity or by a close relative or their partner (as defined in the Code of Conduct for Members) or which relate to land which they own and/or have a beneficial interest in, must be drawn to the attention of the Senior Officer responsible for Planning, and will be reported to the Committee for a decision, in accordance with the Scheme of Delegation to Officers.

They must not speak in support of, or take part in the determination of, an application as described above. They must declare an Interest and leave the meeting and not seek to influence any decision made. They may, however, appoint an agent who can speak, subject to the rules of Public Speaking at Meetings of the Committee.

If an application is submitted by a close relative or partner (as defined in the Code of Conduct for Members) of a Member of the District Council, the Member should not speak in support of, or take part in the determination of, the application. The applicant may speak at Committee meetings subject to the rules of Public Speaking at meetings of the Committee or appoint an agent to speak on their behalf.

4.2 Planning Applications submitted by the Council itself

All applications which are submitted by the Council itself must be reported to the Committee for a decision, in accordance with the Scheme of Delegation to Officers. However, once the principle of development has been established, subsequent applications to discharge conditions or for minor variations may be determined in accordance with the Scheme of Delegation.

4.3 Applications submitted by Officers

An application submitted by or on behalf of an employee of the Council or Publica, will be reported for determination by the Committee. Exceptions may be made for non-planning staff (excluding those in politically restricted posts) in accordance with the Scheme of Delegation.

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Appendix 7

COTSWOLD DISTRICT ~~COUNCIL~~COUNCIL Financial Rules

~~These financial rules relate to each of the Local Authorities forming the GO Shared Services, being Cotswold District Council, Cheltenham Borough Council, Forest of Dean District Council and West Oxfordshire District Council. This Shared Service provides shared financial, payroll, procurement and human resources services across the partnering authorities. Each council's governance structure is laid down in their constitutions.~~

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Appendices

Appendix A1 - Schedule of Financial limits

1.0 Introduction

1.1 Financial Rules, together with Contract ~~Procedure~~ Rules and other forms of guidance on procedure and conduct, provide the framework for managing the ~~council~~Council's financial affairs, ensuring high integrity and accountability. They apply to every Member and Officer of the ~~council~~Council and anyone acting on behalf of the ~~council~~Council.

1.2 To conduct its business efficiently the ~~council~~Council needs to ensure that there are sound financial management policies in place and that these are strictly adhered to. ~~Part of this process is the establishment of Financial Rules that set out the financial policies of the councils forming the GO Shared Services.~~

1.3 These Financial Rules are made pursuant of the Local Government Act 1972, Section 151 the Accounts and Audit Regulations 2003 (as amended) and all other enabling powers.

1.4 The Financial Rules provide clarity over the accountabilities of individuals, ensures that the ~~council~~Council uses best practice when dealing with financial matters and that ~~council~~Council resources are used wisely.

1.5 ~~For the purpose of these Financial Rules, the description "Council" shall refer to the Full Council, made up of elected members, and the term "council" shall relate to the local authority.~~

1.6 The financial limits approved as part of these Financial Rules are summarised in Appendix A1 – Schedule of Financial Limits.

2.0 Status of Financial Rules

2.1 ~~These Financial Rules relate to each of the Local Authorities forming the GO Shared Services, being Cotswold District Council, Cheltenham Borough Council, Forest of Dean District Council and West Oxfordshire District Council. This service provides shared financial, payroll, procurement and human resources services across the partnering authorities.~~

2.2 The Financial Rules shall be complied with by all Officers and Members, ~~including Officers employed by Publica Group (Support) Ltd. from each of the above Local Authorities. If job titles and roles differ between the councils, the responsibilities defined in the Rules shall be adopted by the most appropriate level of employee within each council's structure, agreed locally.~~

2.3 The Financial Rules shall apply to all Officers within ~~Publica Group (Support) Ltd~~the ~~GO Shared Services~~, irrespective of the client ~~council~~Council. Full access to financial systems and records shall be given to delegated Officers within the ~~Finance and HR~~ Shared Services in order to facilitate transactional processing and other finance related work, as required.

2.4 The Financial Rules identify the financial responsibilities of ~~Council~~Council, Cabinet and Cabinet Members, other Members, the ~~Head of Paid Service~~ (Chief Executive), the Monitoring Officer, the Section 151 Officer, ~~other the Council's Retained Senior Officers, Publica~~ Directors, ~~Group Managers~~ and ~~Heads of Service~~Business Managers and all other ~~Council and Publica~~ employees and agents of the ~~council~~Council.

2.5 ~~The Council's Retained Senior Officers, Publica Directors, Group Managers and Business Managers and Heads of Service~~ are responsible for ensuring that all staff in their departments are aware of their responsibilities according to the Financial Rules and other internal regulatory documents and comply with them.

2.6 Cabinet Members, ~~the Chief Executive, Publica Directors~~ and ~~Senior Group Managers~~Officers should maintain a written record where these responsibilities ~~have been~~are delegated to members of staff, ~~either employed by the Council or Publica,~~ including seconded staff.

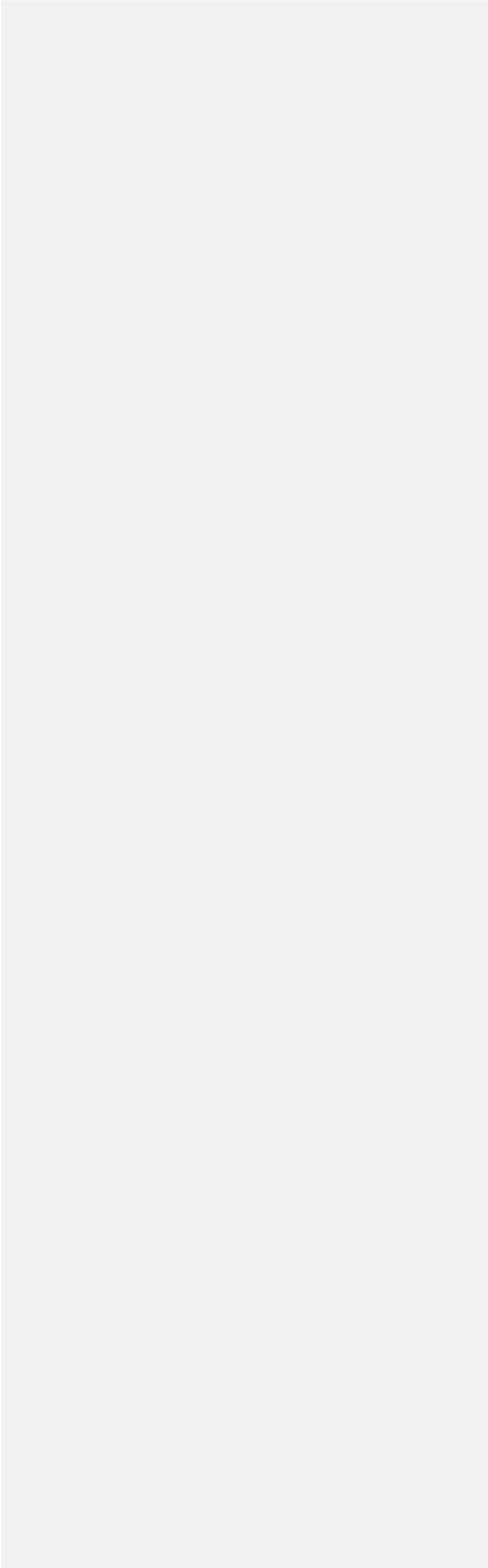
2.7 Where responsibilities have been delegated or devolved to other responsible Officers, references to the Members, ~~Chief Executive, Section 151 Officer, Monitoring Officer, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers or Publica Business Managers or Senior Officers in the rules~~ should be read as referring to them.

2.8 All Members and Employees 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 and provides value for money. Nothing included in or omitted from these Financial Rules shall detract from this responsibility.

2.9 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Rules and advising the Cabinet of any non-material additions or changes necessary.

2.10 The Rules will be formally reviewed every 5 years under the control of the Section 151 Officer, ~~in consultation with the Head of GO Shared Services, GO Shared Services Heads of Finance and all those who deal with financial matters within and on behalf of the council.~~ The revised Rules will be reported to each ~~council~~Council for approval. In the meantime, if material changes make a review of the Rules necessary, this should be the subject of a report by the Section 151 Officer, ~~at each council.~~

2.11 Should an instance of non-compliance with these rules be discovered the Section 151 Officer may, after consultation with the Chief Executive, make a report to the Leader, Full ~~Council~~Council and/or Cabinet, as appropriate. Non-compliance with financial rules may also lead to disciplinary action being taken.



FINANCIAL RULES

A: FINANCIAL MANAGEMENT

A1 Introduction

A1.1 Financial management covers all financial accountabilities in relation to the running of the [Council](#), including the policy framework and budget.

A1.2 Key processes and controls must be in place to ensure good financial management and help the [Council](#) conduct affairs in an efficient, effective and economic manner.

A1.3 Monitoring systems must be in place to review compliance with financial standards and to ensure compliance with legal and corporate requirements for accountability.

A2 Emergencies

A2.1 Nothing in these Financial Rules or the Contract Rules shall prevent the Cabinet, the Executive Board or a Director from incurring expenditure essential to meet any immediate needs created by an emergency, or which is referable to Section 138 of the Local Government Act 1972. This should be done in accordance with the [Council](#)'s constitution. Any such action shall be reported as soon as possible to Cabinet, detailing the nature of the emergency, the action taken, the financial implications and any other consequences.

A3 Full [Council](#)

A3.1 The Full [Council](#) ~~for each authority~~ is responsible for:

- Adopting the [Council](#)'s Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates.
- Approving and monitoring compliance with the [Council](#)'s overall framework of accountability and control. The framework is set out in the [Council](#)'s written Constitution.
- Approving procedures for recording and reporting decisions taken. This includes decisions taken by the [Council](#), the Cabinet, Committees and Officers. These delegations and details of who has responsibility for which decisions are set out in the [Council](#)'s Constitution.

A3.2 The Full ~~Council~~Council (together with the Section 151 Officer) has a statutory responsibility to ensure:

- The setting of the annual budget, including the allocation of financial resources to different services and projects, proposed reserves, the ~~Council~~Council tax base and the setting of the ~~Council~~Council tax.
- The preparation of the annual Statement of Accounts, in accordance with the Accounts and Audit Regulations 2014~~5~~, ~~before 30th June following the year end to which they relate.~~ The Section 151 Officer shall sign and date the draft Statements ~~before 30th June of each year~~ and the final audited Statements ~~before 30th September each year~~
- The publishing of the Statement of Accounts, and the external auditor's Certificate, Opinion or Report ~~by 30th September each year, following the year end to which they relate.~~ The ~~Council~~Council has given delegated authority ~~to the Audit Committee for the Statement to be approved the Statement. The Chair of the Committee will also sign the Statement, d by Audit Committee or other approved Committee as per the council's constitution, and signed by the person presiding at the Committee meeting at which the approval is given.~~
- ~~The Statement of Accounts are made available for public inspection for 320 days when an interested person, for example, business ratepayers, Council tax payers or those who pay fees and charges, may exercise their rights under prior to the date set by the external auditor, on or after which the electors rights under Section 15 (2) and 16 (1) of the Audit Commission Act 1988 can be exercised in the Local Audit and Accountability Act 2014 and the Local Audit (Public Access to Documents) Act 2017, accordance with the Accounts and Audit Regulations 2003.~~
- ~~Also to ensure~~The publication~~h~~ of the Annual Audit and Inspection letter received from the external auditor.
- That public notice is given ~~by advertisement~~ of the conclusion of the audit and that the Statement of Accounts and the external auditor's report are available for inspection.

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A4 Cabinet

A4.1 The Cabinet is responsible for discharging executive functions in accordance with the policy framework and budget and for monitoring compliance with the agreed policy and related executive decisions.

A4.2 Executive decisions can be delegated to a Committee of the Cabinet, an individual Cabinet Member, an Officer, or a Joint Committee.

A4.3 The constitution contains a requirement to ensure that an individual Cabinet Member consults 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.

A4.4 No member shall ask an employee to incur expenditure for which there is no appropriate provision in the budget, unless in consultation as part of an emergency as detailed in paragraph A2.1.

A4.5 A record shall be kept of the decision making process.

A5 Overview and Scrutiny Committee(s)

A5.1 The ~~council~~Council has an Overview and Scrutiny Committee(s), responsible for the scrutiny of Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. ~~These~~is Committee(s) ~~are~~is also responsible for making recommendations on future policy options and reviewing the general policy and service delivery of the ~~council~~Council.

A5.2 ~~The~~ Overview and Scrutiny Committee(s) ~~does~~ not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to Cabinet and the ~~council~~Council concerning any matter.

A6 Audit Committee

A6.1 The ~~council~~Council has an Audit Committee, responsible for ensuring effective internal control and independent assurance mechanisms across all areas of the ~~council~~Council.

A6.2 The Audit Committee is responsible for Internal Audit, External Audit provision, risk management, the signed approval of the Annual Statement of Accounts and the Corporate Governance Framework. This Committee does not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to other Committees and the ~~council~~Council concerning any matter.

A7 Standards Committee

A7.1 The ~~Audit Committee~~ ~~council has a Standards Committee, established by Full Council,~~is responsible for promoting and maintaining high standards of conduct amongst ~~Members of the~~ ~~council~~Council and co-opted Members on its Committees and Sub-

Committees. In particular, it is responsible for advising the ~~council~~Council on the adoption of the Members' Code of Conduct, and for monitoring the operation of the code.

A7.2 The ~~Standards Audit~~ Committee ~~does not have authority over any financial activity, other than to support the work of the Committee itself, but~~ can make reports to other Committees and the ~~council~~Council concerning any ~~Standards related~~ matter.

A8 Other Committees

A8.1 Planning and Licensing Committees-

Planning regulation and licensing are quasi-judicial functions and are exercised through Planning and Licensing Committees within the ~~council~~Council, under powers delegated by Full ~~Council~~Council. The terms and references of these committees are set out in the Constitution.

A8.2 Joint Committees-

The ~~council~~Council can set up Joint Committees with other organisations to oversee the management of activities or facilities. The financial activity of a Joint Committees is governed by ~~their~~its terms of reference. The ~~council~~Council's procedural and Financial Rules apply to a Joint Committees unless there has been specific agreement in line with the constitution to operate under other rules.

A9 ~~Head of Paid Service~~Chief Executive ~~(Chief Executive)~~

A9.1 The ~~Head of Paid Service~~Chief Executive ~~(Chief Executive)~~ is responsible for the corporate and strategic management of the ~~council~~Council and fulfils the statutory role of Head of Paid Service. He or she must report to and provide information for Full ~~Council~~Council, Cabinet, Overview and Scrutiny Committees, Audit Committee and any other Committees as required. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

A9.2 The ~~Head of Paid Service~~Chief Executive ~~(Chief Executive)~~ is also responsible, together with the Monitoring Officer and/or other delegated Officer, for the system of record keeping in relation to all Full ~~Council~~Council's decisions.

A10. Monitoring Officer

A10.1 The Monitoring Officer is a statutory role within the ~~council~~Council, ~~and is the lead Solicitor for the Authority~~. This role cannot be the Head of Paid Service or the Section 151 Officer. The Monitoring Officer's role is defined in the Constitution, including responsibility for:

- Advising, as appropriate, the ~~Council~~Council on amendments to the constitution or making such amendments as necessary to take account of decisions of the ~~Council~~Council, a Committee, the Cabinet or Leader and changes of law or fact. He or she shall notify Members, ~~the Head of Paid Service~~Chief Executive and other Officers as he ~~or~~/she considers appropriate.
- Contributing to the promotion and maintenance of high standards of conduct through the provision of support to the ~~Standards Audit~~Standards Committee.

~~• Receiving and acting on reports made by ethical standards officers and decisions of the First-Tier Tribunal.~~

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~~• Conducting investigations into matters referred by an Initial Assessment Sub-Committee or an Appeals Sub-Committee of the Standards Committee, or arranging for such investigations to be made, and making reports or recommendations in respect of them to the Standards Committee.~~

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- After consultation with the ~~Head of Paid Service~~Chief Executive and the Section 151 Officer, reporting to ~~Council~~Council (or Cabinet in relation to an Executive function), if he or she considers that any proposal, 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.

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A11 Section 151 Officer

A11.1 Section 151 of the Local Government Act 1972 requires that every local authority in England and Wales should make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs. This Officer must be a member of a specific accounting body.

A11.2 The Section 151 Officer is therefore a statutory role of the ~~council~~Council, with statutory duties in relation to the financial administration and stewardship of the ~~council~~Council. He or she (or his/her designated deputy) shall have the right and duty to advise the ~~Council~~Council, Cabinet, Committees and ~~Senior Council~~Management Team on priorities in relation to resources and capital expenditure. This statutory responsibility cannot be overridden.

A11.3 The Section 151 Officer is responsible for:

- The proper administration of the [Council](#)'s financial affairs.
- Determining the [Council](#)'s accounting records, including the form of accounts and supporting accounting records and its accounting control systems, in compliance with the Accounts and Audit regulations 2003.
- Providing financial information and advising on the corporate financial position to the authority as required.
- Ensuring that the Annual Statements of Accounts are prepared in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom.
- Signing the Annual Statement of Accounts and certifying that it presents a true and fair view of the financial position of the [Council](#) at the financial year end.
- Preparing the Medium Term Financial Strategy and the [Annual Revenue Budgets and Capital Programmes](#), within the Policy Framework.
- Reporting to Full [Council](#) (under the requirement of Section 25 of the Local Government Act 2003), when it is considering its budget, [Council](#) tax and housing rents (if applicable) for the new financial year. This 'Section 25' report ~~will~~ include [a statement on](#) the robustness of estimates and adequacy of reserves.
- Advising the [Council](#) on the level of reserves needed for meeting estimated future expenditure, in accordance with the statutory requirement for billing authorities to maintain financial reserves (under Sections 32 and 43 of the Local Government Finance Act 1992).
- Treasury Management.
- Advising the Cabinet or Full [Council](#) about whether a decision is likely to be considered contrary to or not wholly in accordance with the approved budget.
- Providing regular reports to the Cabinet on the [Council](#)'s finances and financial performance.
- Monitoring compliance with the Financial Rules and ~~Contract Procedure Rules~~ [Contract Rules](#) and reporting, where appropriate, breaches of these rules to the Cabinet and/or full [Council](#).
- Formally reviewing the Financial and ~~Contract Procedure Rules~~ [Contract Rules](#) every 5 years and reporting the revised Rules to

the ~~council~~Council for approval.

- Maintaining a continuous review of the Financial and ~~Contract Procedure Rules~~Contract Rules and making any non-material changes to the Rules, as considered necessary, or as part of the formal 5 year review.
- Advising the Cabinet of any material additions or changes necessary to the Financial Rules.
- Issuing advice and guidance to underpin these rules for Members, employees and agents of the ~~council~~Council to follow.

A11.4 Section 114 of the Local Government Finance Act 1988 requires:

- The Section 151 Officer to nominate a properly qualified member of his or her staff to deputise should he or she be unable to perform the Section 151 Officer duties personally.
- The ~~council~~Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, in order to carry out the Section 151 Officer duties.

A12 Directors and Heads of ServiceCouncil Management Team

A12.1 ~~The Council Management Team comprises of the Chief Executive, who fulfils the role of Head of Paid Service, the Section 151 Officer and the Monitoring Officer. They are responsible for the delivery of services and management of Council budgets either through direct management of Council employees and budgets or through third parties such as Publica Group (Support) Ltd, Ubico Ltd, SWAP Ltd or leisure and cultural services providers. Spending and income generation should be in accordance with service budgets and performance monitored against budget. Day to day management of service budgets is the performed by the relevant third party with financial performance reported to the Council Management Team.~~ Directors and Heads of Service are responsible for the delivery of their own service(s) and for the day to day management of their service(s) budgets. Spending and income generation should be in accordance with service budgets and performance monitored against budget.

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A12.2 ~~Each Director or Head of Service~~The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers are is responsible for:

- Complying with the Financial and Contract Rules and other internal regulatory documents and ensuring that all employees within his or her service(s) are aware of the existence and content of these Rules.

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- Advising Cabinet Members of the financial implications of all proposals and ensuring that the financial implications have been agreed by the Section 151 Officer.
- Consulting with the Section 151 Officer or delegated Deputy and seeking approval on any matter liable to affect the ~~Council~~Council's finances materially (defined as in excess of £10,000), before any commitments are incurred.
- Ensuring that all systems and controls within his or her service(s) ~~are operated~~ to prevent, minimise and detect any opportunity for fraud, theft or other irregularity. He or she should ensure the accountability and control of employees and the security, custody and control of all other resources within the service(s).

A13 Employees

A13.1 All employees and/or agents acting on behalf of the ~~eouncil~~Council are responsible for:

- Complying with the Financial and ~~Contract Procedure Rules~~Contract Rules and any other internal regulatory documents of the ~~eouncil~~Council.
- Keeping accurate and comprehensive records to support transactions they undertake on the ~~eouncil~~Council's behalf. These records must be in accordance with the accounting systems and policies established by the Section 151 Officer.
- Avoiding conflicts of interest and ensuring compliance with the employees code of conduct.

A14 Internal Audit

A14.1 The Accounts and Audit Regulations ~~2011~~(2015 (England) requires that the ~~eouncil~~Council must undertake an adequate and effective internal audit of its accounting records and its system of internal control, in accordance with the proper practices in relation to internal control.

A14.2 The Section 151 Officer is responsible for ensuring that arrangements are put in place to ensure financial stewardship, probity and compliance with laws and regulations within the ~~eouncil~~Council.

A14.3 The Head of Internal Audit role and the Internal Audit function is provided by SWAP Internal Audit Services. The Head of Internal Audit is responsible for providing a written report to those charged with governance, which includes an opinion on the adequacy and effectiveness of the

~~ouncil~~Council's control environment under the [Public Sector Internal Audit Standards](#), CIPFA Code of Practice for Internal Audit in Local Government and the [Accounts and Audit Regulations 2015](#)~~2006~~.

A14.4 The ~~ouncil~~Council's Internal Audit function is responsible for reviewing and reporting on corporate and departmental internal control arrangements, both financial and operational, as appropriate. This function can be provided by a suitably qualified external body (for example a shared Internal Audit Service).

A14.5 Internal Audit shall provide positive assurance when financial controls are effective and recommendations for improvement where they are not. They shall advise all levels of management on the operation of financial and operational controls to help prevent things going wrong.

A14.6 Internal Audit are responsible for the investigation and reporting of ~~all~~ suspected irregularities, at the request of the Section 151 Officer, Monitoring Officer, the Chief Executive or a [Publica](#) Director. [The Counter Fraud Unit may also be instructed to carry out investigations of irregularity. Where there is the possibility of fraud, Internal Audit may support an investigation lead by the Counter Fraud Manager.](#)

A15 External Audit

A15.1 The ~~ouncil~~Council's External Auditor is responsible for:
~~considering whether the council has proper arrangements in place for:~~

- ~~Assessing the Council's economy, efficiency and effectiveness in its use of resources (the Value For Money conclusion). Securing financial resilience; reviewing the council's financial governance, financial planning and financial control processes.~~
- ~~Challenging how it secures economy, efficiency and effectiveness; looking at how the council is prioritising resources and improving efficiency and productivity.~~ Giving an opinion on the Council's financial statements.

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B: FINANCIAL PLANNING, BUDGET PREPARATION AND BUDGET MONITORING

B1 Introduction

B1.1 Full [Council](#) is responsible for agreeing the [Council's](#) policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are the corporate plan, the annual revenue budget, the capital programme and the Medium Term Financial Strategy.

B1.2 The policy framework comprises a number of statutory plans and strategies that are listed in the [Council's](#) Constitution.

B1.3 The budget is the financial expression of the [Council's](#) plans and policies. It reflects [Council](#), Cabinet and Committee priorities and gives authority to Budget Holders to incur expenditure or collect income. It should take due account of the risks and opportunities facing the [Council](#).

B1.4 The revenue budget must be constructed to ensure that resource allocation properly reflects the service plans and priorities of the [Council](#). Budgets are needed so that the [Council](#) can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the [Council](#) to budget for a deficit.

B1.5 Medium term financial planning covering a minimum period of 4 years, which incorporates both revenue and capital plans, involves a planning cycle in which Members, the [Chief Executive](#), [Council Management Team](#), [Public](#) Directors, [Public Group Managers](#), [Public Business Managers](#) and Budget Holders plan for significant events and changes to spending and income. This allows for measured and appropriate action to be taken each year when setting detailed budgets and avoids the need for urgent or undesirable action.

B2 Full [Council](#)

B2.1 Full [Council](#) is responsible for the approval and adoption of its annual Budget in February of each year prior to the start of the next financial year.

B2.2 This includes:

- The allocation of financial resources to services and projects.
- The control of capital expenditure.
- The approval of the Medium Term Financial Strategy.
- The control of the [Council's](#) borrowing requirement.
- Setting the rate of [Council](#) Tax.

- Setting the [Council](#) Tax base (unless delegated under the constitution),
- [The approval of the Council Capital, Investment and Treasury Management Strategies](#),
- [Approval of the Council pay policy](#)

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B2.3 Full [Council](#) is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework, unless otherwise delegated under the constitution.

B2.4 Full [Council](#) is responsible for setting the level at which the Cabinet, Cabinet Members and Officers may reallocate budget funds from one service to another (see virement rules, Section C).

B3 Cabinet

B3.1 The general format of the annual budget will be approved by [the Cabinet](#), on the advice of the Section 151 Officer, ~~in the autumn of each year prior to the start of the next financial year.~~

B3.2 The Cabinet is responsible for:

- Co-ordinating the development of the Budget and Policy Framework and submitting budget proposals to Full [Council](#) in February prior to the start of the next financial year.
- Taking in-year decisions on resources and priorities in order to deliver the budget and Policy Framework within the financial limits set by the [Council](#).
- Monitoring financial performance against the budget.

B4 Section 151 Officer

B4.1 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a Medium Term Financial Strategy is prepared on a minimum 4 year basis for consideration by the Cabinet, before submission to Full [Council](#) in February prior to the start of the next financial year.

B4.2 The Section 151 Officer is responsible for:

- Determining the format and the timetable for the budget, to be agreed by Cabinet, ~~in the autumn prior to the start of the next financial year.~~
- Supplying the financial information that needs to be included in policies, strategies and performance plans in accordance with statutory requirements and agreed timetables.
- Providing guidance to Officers on budget preparation.
- Advising Full ~~Council~~Council on Cabinet budget proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972. This advice to be presented to Full ~~Council~~Council at its budget setting meeting in February, as part of his or her S25 Report.
- Ensuring that expenditure is committed only against an approved budget and that all Officers responsible for committing expenditure comply with the Financial Rules and other relevant guidance.
- Establishing a framework of budgetary management and control, ensuring that financial performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.
- The preparation of Budget Monitoring reports, to be reported to Cabinet, reflecting significant variations to income and expenditure budgets (in excess of £10,000) and the overall financial position, on a minimum quarterly basis.
- Ensuring that appropriate and timely information is provided on receipts and payments, in order to allow budgets to be monitored effectively.
- ~~Ensuring that systems are in place to measure activity and collect accurate financial information for use in local financial performance indicators.~~
- Complying with all legal requirements and CIPFA's Code of Practice on Local Authority Accounting and CIPFA's Service Reporting Code of Practice for Local Authorities.

B5 ~~Directors and Heads of Service~~Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers

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B5.1 ~~The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers and Heads of Service~~ should manage their budgets responsibly and prudently and not create future commitments without approved budget.

B5.2 Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers ~~Directors and Heads of Service~~ are responsible for:

- Contributing to the development of the Policy Framework, budgets and performance plans, ~~within their areas of responsibility~~. Budget estimates should be prepared in line with guidance issued by the Section 151 Officer and have regard to known spending patterns, legal requirements and agreed corporate and/or service plans.
- Contributing to the development of corporate and service targets, objectives and performance information in their areas of responsibility.
- Developing their services' performance plans in line with statutory requirements and corporate guidance.
- Achieving the targets, objectives and levels of performance as set out in the corporate plans (including achievement of budgetary targets within their areas of responsibility).
- Complying with the accounting guidance provided by the Section 151 Officer and ensuring that income and expenditure is properly recorded and accounted for in their service areas. Income and expenditure should not be miscoded as a means of applying unauthorised virement.
- Monitoring income and expenditure within their approved budgets and reporting to the Section 151 Officer and appropriate Cabinet Member significant variations to budget (in excess of £10,000). He or she should also take the necessary action required to improve the financial position.

B5.3 ~~Directors and Heads of Service are able to delegate b~~ Budget responsibilities may be delegated to Service Managers within their given area of responsibility. Any such scheme of delegation should be documented and the Budget Holder made aware of their levels of authority and the contents of the Financial Rules. Adequate training and support should be provided to Budget Holders to enable them to carry out their financial responsibilities and internal controls should be established to ensure that budgets are properly monitored.

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B6 Budget Holders and Other Employees

B6.1 Each delegated budget holder and employee shall be responsible for the sound financial management and budgetary control of their delegated area. This will include the monitoring and control of all financial and finance related systems and the monitoring and control of access to computerised financial records. Significant variations to budgets, in excess of £10,000 should be reported to ~~their Director or Head of Service~~ the S.151 Officer and the Publica Business Manager.

B7 Preparation of Capital Programme

B7.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long-term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure may include loans and grants which are used by others for capital purposes.

B7.2 The Section 151 Officer is responsible for defining whether expenditure is classed as capital or revenue expenditure, having regard to Government regulations and accounting requirements.

B7.3 The ~~council~~Council can set a “de minimis” level for treating capital expenditure as revenue, to avoid unnecessary work in identifying potential capital spend. The current “de minimis” level is set at £10,000. Expenditure falling within the definition of capital expenditure will be charged to revenue if ~~it~~ is for £10,000 or less.

B7.4 The Section 151 Officer is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by Cabinet, before submission to Full ~~Council~~Council for approval as part of the annual Budget setting process.

B7.5 ~~Each Director or Head of Service will prepare a b~~Business cases ~~will be prepared~~ for each new item to be included in the capital programme, including details of the scheme, ~~link to the Council Priorities,~~ the capital budget requirement, a project plan, associated revenue ~~income and~~ expenditure and any other details requested by the Section 151 Officer.

B7.6 No capital scheme shall commence which will increase the revenue expenditure of the ~~council~~Council until such revenue provision has been approved.

B7.7 The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of ~~the Council's Capital, Investment an investment and Treasury Management~~ strategies and should be carefully prioritised in order to maximise the benefit of scarce resources.

B7.8 New capital schemes in year should be approved as follows:

- Amounts not exceeding £1~~50~~0,000 – by Cabinet

- Amounts in excess of £1500,000 – by Full ~~Council~~Council.

This approval is subject to the availability of the approved budget.

B7.9 As part of the capital programme, an asset management plan shall be maintained by a Publica Business Manager with responsibility for assets. ~~designated Director or Head of Service and a A eCapital eStrategy shall be maintained by the Section 151 Officer. The plan and strategy shall be reported to Cabinet every three years.~~

B7.10 Once a capital project has been approved, the Council Management Team will a Director, or delegated employee, will be accountable for the delivery of the scheme through Publica. Publica and must comply with the ~~council~~Council's Contract Procedure RulesContract Rules, Financial Rules and any other internal regulatory documents.

B8 Resource Allocation

B8.1 Where there is a mismatch between available resources and required resources, service needs should be prioritised and resources fairly allocated.

B8.2 The Section 151 Officer is responsible for:

- Developing and maintaining a resource allocation process that ensures due consideration of the ~~council~~Council's policy framework.
- Advising on methods available for accessing additional resources and assessing their financial implications.
- Assisting in the allocation of resources to budget holders.

B9 Increases in Estimates

B9.1 Other than by virement or supplementary estimate, expenditure estimates may not be increased as a result of increased income, unless the service is designated as a trading service by the Section 151 Officer, in consultation with the ~~relevant Director~~Chief Executive and Cabinet Member. In these circumstances expenditure estimates approved by the ~~Council~~Council may be increased as a result of increased income, in line with the virement rules set out in the Financial Rules.

B10 Carry Forward of Budget

B10.1 Carry forward of planned underspend of revenue budgets into the following financial year will only be allowed with the agreement of the Section 151 Officer, in order to meet the needs of approved service delivery. All

applications shall be submitted to the Section 151 Officer in accordance with the agreed year end timetable.

B10.2 Section 151 Officer approval is subject to evidence that the underspend is as a result of timing, has been committed for the **same purpose** as originally intended, and will be spent in the new financial year. The Section 151 Officer will report agreed carry forwards to the Cabinet each year.

B10.3 All other carry forward requests, including budget under spends that have been carried forward in previous financial years, will be subject to [Full Council/Cabinet](#) approval. ~~at the Financial Outturn meeting held after the year end (unless otherwise delegated under the constitution).~~

B11 Maintenance of Reserves

B11.1 Full [Council/Council](#) must set the level of general reserves it wishes to maintain before it can decide the level of the [Council/Council](#) Tax. Reserves are maintained as a matter of prudence. They enable the [Council/Council](#) to provide for unexpected events and thereby protect it from overspending should such events occur.

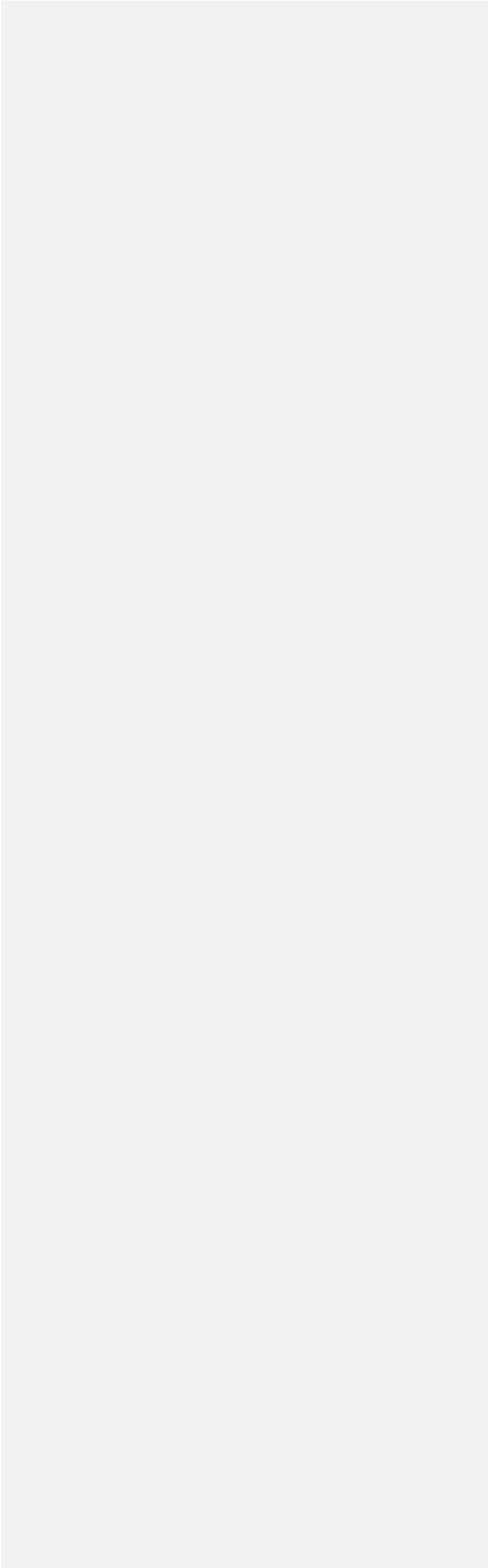
B11.2 The Section 151 Officer has a statutory obligation under the Local Government Act 2003 to report on the adequacy of the [Council/Council's](#) reserves to Cabinet and Full [Council/Council](#), at the time the [Council/Council](#) considers its budget for the coming year.

B11.3 Reserves can be maintained for three main purposes:

- A working balance to help cushion the impact of uneven cash flows and avoid unnecessary temporary borrowing (This forms part of general reserves).
- A contingency to cushion the impact of unexpected events or emergencies (This also forms part of general reserves).
- A means of building up funds to meet known or predicted requirements (Earmarked reserves).

B11.4 The Section 151 Officer has delegated authority to approve in year transfers to and from earmarked reserves to support the activities of the [Council/Council](#).

B11.5 The transfer to and from general reserves shall be the responsibility of Full [Council/Council](#). As part of the annual budget approval process, Full [Council/Council](#) may delegate the amount by which such funds may be utilised and approved by Cabinet in meeting unforeseen expenditure.



C: SCHEME OF VIREMENT

C1 Introduction

C1.1 The scheme of virement is intended to enable the Cabinet, [Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers](#) and ~~Heads of Service~~ and Budget Holders to manage budgets with a degree of flexibility within the overall Policy Framework determined by the ~~Council~~[Council](#), and therefore to optimise the use of available resources.

C1.2 Virement is the switching of resources between approved budgets at a service or cost centre level. This transfer of budgetary provision may be used if additional expenditure is required on an existing budget, providing that an equal expenditure saving or additional income can be made on another budget, subject to the Virement Rules.

C2 Full ~~Council~~[Council](#)

C2.1 Full ~~Council~~[Council](#) is responsible for agreeing procedures for virement of expenditure between budget headings. The virement scheme is administered by the Section 151 Officer within the guidelines set by Full ~~Council~~[Council](#). Any variation from this scheme requires the approval of Full ~~Council~~[Council](#).

C2.2 Virement in excess of £150,000 are deemed to change the Budget and Policy Framework and require the approval of Full ~~Council~~[Council](#).

C3 Budget Variations within a Service

C3.1 Action to correct actual or projected variations in budgeted income or expenditure within an approved cost centre / service is delegated to the relevant ~~Service Manager or~~ Budget Holder, in consultation with ~~GO Shared Services~~[the Section 151 Officer](#). These variations should not have a financial impact on the approved net budget on the cost centre / service.

C4 Virement Rules / Limits

C4.1 The prior approval of the relevant Cabinet Member and the Section 151 Officer is required for any virement, of whatever amount, where it is proposed to vire as a result of a fortuitous increase in income to a cost centre not designated as Trading. The rules below cover the delegated virement limits.

C4.2 The following rules apply to virement between services:

C4.2.1 Revenue budgets:

- **Amounts up to £10,000 –**
Approval by ~~Chief Executive, Publica Director~~~~relevant Director(s) or Head of Service(s)~~~~Publica Group Manager~~. The Section 151 Officer should be informed of this virement.
- **Amounts over £10,000 but not exceeding £25,000 –**
Approval by ~~the Chief Executive relevant Director(s) or Publica Head of Service(s) Director~~ and the Section 151 Officer. Relevant Cabinet Member(s) to be informed of this virement.
- **Amounts over £25,000 but not exceeding £50,000 –**
Approval by Cabinet Member(s) in consultation with Section 151 Officer.
- **Amounts over £50,000 but not in excess of £1500,000 –**
Approval of Cabinet.
- **Amounts in excess of £1500,000 –**
Approval of Full ~~Council~~~~Council~~, or as delegated in the constitution.

C4.2.2 Capital Schemes:

- **Amounts up to £50,000 –**
Approval of ~~relevant Director(s) or Head of Service(s)~~~~Chief Executive, Publica Director or Publica Group Manager~~ with the agreement of the Section 151 Officer. Cabinet Member(s) to be informed.
- **Amounts over £50,000 but not exceeding £1500,000 –**
Approval by Cabinet
- **Amounts in excess of £1500,000 –**
Approval of Full ~~Council~~~~Council~~, or as delegated in the constitution.

C4.3 Virement that is likely to have a financial impact on the level of service activity falling under the responsibility of another ~~Director~~~~Publica Group Manager~~ should only be implemented with the approval of each ~~Director~~~~Publica Group Manager~~ or Cabinet Member(s) concerned.

C4.4 Virement must not be aggregated or disaggregated in order to avoid the Virement Rules.

C4.5 No virement relating to a specific financial year will be made after 31st March in that year.

C4.6 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:

- the amount is used in accordance with the purposes for which it has been established.
- the Cabinet or Full [Council](#) 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 or Full [Council](#) as required.

C4.7 The virement must not contravene any statutory requirement.

C4.8 All virement must be properly documented and approved. A record of all virement should be maintained by the Section 151 Officer and reported to the appropriate Cabinet Member.

D: RISK MANAGEMENT AND INSURANCE

D1 Introduction

D1.1 Risk is the chance of something going wrong which may result in loss, damage, injury, failure to achieve objectives or missed opportunity caused by an unwanted, uncertain or lack of action or event. It includes corporate and strategic risks. All organisations, whether they are in the private or public sectors, face risks to credibility, people, property and continued operations.

D1.2 Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the organisation's opportunities and assets and to ensure its continued financial and organisational well-being. Risk management is, therefore, an integral part of good business practice.

D1.3 It is essential that robust systems are developed and maintained for identifying and evaluating all significant opportunities and risks to the [Council](#) as an integral part of management. This should include the active participation of all those associated with the planning and delivery of services.

D1.4 The [Council](#)'s Risk Management Policy and Strategy sets out criteria for risk assessment and guidance on how it should be managed.

D2 Cabinet

D2.1 The Cabinet is responsible for:

- Approving the [Council](#)'s annual risk management strategy
- Implementing the [Council](#)'s Risk Management Policy and Strategy.
- Promoting a culture of risk management awareness throughout the [Council](#)
- Ensuring that adequate insurance cover exists where appropriate.

D3 Audit Committee

D3.1 The Audit Committee is responsible for:

- Reviewing the effectiveness of risk management processes.
- Ensuring that risk management procedures are satisfactorily carried out.

- Ongoing monitoring and review of the risk management strategy.

D4 Section 151 Officer

D4.1 The Section 151 Officer is responsible for:

- Preparing the Risk Management Policy & Strategy for Cabinet.
- Promoting the culture of Risk Management throughout the ~~council~~[Council](#).
- Advising the Cabinet on appropriate insurance cover for known insurance risks and assets owned and/or used in connection with the ~~council~~[Council](#)'s activities.
- The negotiation, and where appropriate, settlement, of insurance claims, in consultation with the Monitoring Officer and other Employees as appropriate.
- Ensuring that all appropriate Employees are included in a suitable fidelity guarantee insurance.
- Reviewing annually, or at any such other period considered necessary, all insurances, in consultation with [the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Mangers](#) and other Employees as appropriate.

~~D5 Directors and Heads of Service~~[Chief Executive and Council Management Team](#):

~~D5.1 Directors and Heads of Service~~[The Chief Executive and the Council Management Team](#) are responsible for risk management and the regular review of risk and opportunity ~~within their services~~, [including those identified by the Council's Retained Senior Officers, Publica Directors, Group Managers and Business Managers](#), having regard to advice from the Section 151 Officer and other specialist ~~Officers~~[advisors](#) (e.g. Health & Safety Advisor).

~~D5.2 Directors and Heads of Service~~[The Chief Executive, the Council Management Team and Publica Directors and Group Managers](#) are responsible for:

- Actively managing opportunities and risk in their area of responsibility.
- Providing prompt notification to the Section 151 Officer for all new risks, properties, services or vehicles which require to be insured and of any alterations affecting existing insurances. This should include any areas of responsibility undertaken in respect of an external organisation, whether or not linked to the ~~council~~[Council](#)'s activities.

- Providing notification to the Section 151 Officer in writing of any loss, liability or damage or any event likely to lead to a claim. Further notification should be given to the Section 151 Officer immediately on receipt of any insurance claim.

- Consulting with the Section 151 Officer and the Monitoring Officer concerning the terms of any indemnity which the [Council](#) is requested to give.

- Ensuring that all [Council and Publica](#) employees:-
 - are aware of their responsibilities for risk management and insurance.
 - receive adequate support and training to carry out their responsibilities.
 - comply with the [Council](#)'s standards of financial management.
 - are personally protected from risk.

D6 Budget Holders, [Council and Publica](#) and ~~Other~~ Employees

D6.1 Budget Holders, [Council](#) and ~~other~~ [Publica](#) Employees are responsible for:

- Identifying opportunities and risks in their service areas.
- Assessing the likelihood of their occurrence and evaluating the possible impact. This involves arranging them in order of priority, recording the risks and judging the potential financial cost, lost time, inconvenience or upheaval, disruption to service, bad publicity or loss of service quality.
- Taking steps to minimise potential losses. Effective action will represent a judgement between the likely risk and the cost or effort required to safeguard against it.
- Notifying the Section 151 Officer promptly of all new risks, properties or vehicles which require insurance and of any alterations affecting existing insurance.
- Notifying the Section 151 Officer immediately of any loss, liability or damage which may lead to a claim against the [Council](#), together with any information or explanation required by the Section 151 Officer or the [Council](#)'s insurers.
- Recording any incident which may result in a loss.

- Consulting the Section 151 Officer and the Monitoring Officer on the terms of any indemnities which the [Council](#) is required to give.
- Ensuring that the [Council](#)'s employees, or anyone covered by the [Council](#)'s insurance, do not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of an insurance claim.

E: INTERNAL CONTROLS AND AUDIT

E1 Introduction

E1.1 Internal control refers to the systems of control devised by management to help ensure the [Council](#)'s objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the [Council](#)'s assets and interests are safeguarded.

E1.2 The [Council](#) faces a wide range of financial, administrative and commercial risks, both from internal and external factors. Internal controls are necessary to help manage these risks and to monitor progress towards its strategic objectives.

E2 Internal Audit

E2.1 The Accounts and Audit Regulations 2011 require that the [Council](#) must undertake an adequate and effective internal audit of its accounting records and of its system of internal control, in accordance with proper practices in relation to internal control.

E2.2 The internal audit function should operate in accordance with the CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom, the Chartered Institute of Internal Auditors (UK and Ireland) Standards for the Professional Practice of Internal Auditing, and with any other statutory obligations and regulations.

E2.3 Internal Audit shall provide an independent, objective, assurance and consulting activity for the review of the [Council](#)'s system of internal control.

E2.4 The [Council's](#) Head of Internal Audit [and the Internal Audit Service is provided by SWAP Internal Audit Services.](#) The Head of Internal Audit is responsible for providing a written report to those charged with governance, which includes an opinion on the adequacy and effectiveness of the [Council](#)'s control environment under the CIPFA Code of Practice for Internal Audit in Local Government ~~2006~~[and the Public Sector Internal Audit Standards.](#)

E2.5 The Head of Internal Audit has the right to meet the Chair of the Audit Committee in private.

E2.6 Internal Audit shall have direct access to the [Head of Paid Service Chief Executive](#), the Section 151 Officer, the Monitoring Officer, all levels of Management [in the Council and Publica](#) and Elected Members.

E2.7 Internal Audit shall have full and complete access to all information, records, facilities and personnel relevant to the performance of an audit review.

E3 External Audit and Inspection

E3.1 The [Council has commissioned Public Sector Audit Appointments Limited \(PSAA\) Audit Commission is responsible for to](#) -appoint the [Council's](#) external auditors. ~~to each local authority in England and Wales.~~ The basic duties of the external auditors are defined in the [Audit Commission Act 1998](#) [Local Audit and Accountability Act 2014](#) and are set out at A.15. ~~and the Local Government Act 1999.~~

~~**E3.2** The external auditor's main objectives are to review and report on the financial aspects of the council's corporate governance arrangements, the financial statements and the arrangements to manage its performance.~~

~~**E3.3** External Audit is responsible for considering whether the council has proper arrangements in place for:~~

- ~~• Securing financial resilience; reviewing the council's financial governance, financial planning and financial control processes.~~
- ~~• Challenging how it secures economy, efficiency and effectiveness; looking at how the council is prioritising resources and improving efficiency and productivity.~~

E3.42 The ~~council~~[Council](#) may, from time to time, be subject to audit, inspection or investigation by other external bodies, such as HMRC, all of whom have statutory rights of access.

E4 Audit Committee

E4.1 The Audit Committee provides a broad base audit role across all areas of the ~~council~~[Council](#), while promoting and ensuring effective governance, internal control and assurance mechanisms.

Audit Committee is responsible for:

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- Reviewing internal and external reports and assessments in respect of corporate governance.
- Considering the Head of Internal Audit's annual report and opinion and annual internal audit plan and the level of assurance it gives over the [Council](#)'s corporate governance arrangements.
- Monitoring the operational Internal Audit plan and the audit planning process; ensuring that internal audit work is planned with due regard to risk, materiality and supports the [Council](#)'s corporate aims and priorities.
- Consulting with the Audit Commission on the appointment of the [Council](#)'s external auditor.
- Consideration and review of the external audit annual Report to those charged with governance (ISA 260) and all associated reports and other documents.
- Reviewing all matters relating to external audit, including audit and inspection planning, action points and reports
- Monitoring and review of actions required arising out of external and internal audit recommendations.
- Ensuring effective liaison between external and internal audit and any other inspection agency.
- Reviewing and signing approval of the audited annual statement of accounts and annual governance statement, ~~including the statement of the system of internal financial control by 30th September of each year following the financial year end.~~

E5 Section 151 Officer

E.5.1 The Section 151 Officer is responsible for:

- Advising and assisting the [Council](#) to put in place a control environment which provides reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- Ensuring that an adequate and effective Internal Audit Service is maintained, with the authority to access all assets, records, documents, correspondence and control systems of the [Council](#), and such records belonging to third parties, such as contractors, when required.

- Ensuring that effective procedures are in place to investigate promptly any suspected fraud or irregularity.
- Ensuring that all External Auditors and Inspectors are given access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
- Working with the appointed External Auditors and Inspectors and advising the Audit Committee, Cabinet, Directors and Heads of Service on their responsibilities in relation to external audit and inspection.
- Ensuring there is effective communication between External and Internal Audit.

E.6 ~~Directors and Heads of Service~~Council Management Team, the Council’s Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers

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E6.1 ~~The Council Management Team and Publica Directors, Publica Group Managers and Publica Business Managers~~Each Director and Head of Service ~~is~~are responsible for:

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- Establishing sound arrangements for planning, appraising, authorising and controlling their operations, in accordance with the Code of Corporate Governance and the Annual Governance Statement.
- Achieving continuous improvement, economy, efficiency and effectiveness within services.
- Implementing processes to check that established controls are being complied with and to evaluate their effectiveness.
- Reviewing existing controls and establishing new controls where necessary, in order to reflect changes within the ~~council~~Council. They shall consult with Internal Audit on any proposed new systems, before implementation.
- Ensuring that Internal Auditors are given access to all records and assets of the authority, in accordance with their authority as set out above.
- Ensuring that all External Auditors and Inspectors are given access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
- Considering and responding promptly to recommendations in audit reports. Implementing agreed actions arising from audit

recommendations in a timely and efficient fashion.

- Notifying the Section 151 Officer and the Head of Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the ~~Council~~Council's property or resources.
- Ensuring that, as far as possible, the same officer is not responsible for receiving or paying money and rendering accounts or issuing receipts for the same.

E7 Preventing Fraud and Corruption

E7.1 The ~~council~~Council has an ~~Anti-Fraud and Counter-Fraud and Anti-Corruption Policy / Strategy~~ and maintains a culture which will not tolerate fraud or corruption. This includes abuse of position and will result in disciplinary action and may also result in criminal proceedings. The ~~council~~Council's expectation of propriety and accountability is that Members and all Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

E7.2 The ~~council~~Council also expects that individuals and organisations (e.g. service providers, contractors and suppliers) that it comes in contact with, will act towards the ~~council~~Council with integrity and without thoughts or actions involving fraud and corruption.

E7.3 The ~~Section 151 Officer Counter Fraud Unit~~ is responsible for the development and maintenance of a ~~Counter-Fraud and Anti-Corruption Policy Anti-Fraud, Corruption and a~~ Whistle-blowing Policy.

E7.4 The Monitoring Officer is responsible for ensuring that all legislation, including the Public Interest Disclosure Act 1988, the Bribery Act 2010 and the Fraud Act 2006, is adhered to.

E7.5 ~~Each Director and Head of Service~~The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers ~~is/are~~ responsible for ensuring that the systems operated within ~~his or her~~their control seek to prevent or minimise the opportunity for fraud, corruption or irregularity to arise. ~~A~~ and that all staff, ~~in the Council and Publica,~~ act lawfully and are aware of and comply with the ~~council~~Council's ~~anti-fraud and Counter Fraud and Anti-Corruption Policy and~~ Whistle-blowing p~~Policy~~ies.

E7.6 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the ~~council~~Council, or any suspected irregularity in the exercise of the functions of the ~~council~~Council, the ~~Director or Head of Service~~Chief Executive, the Council's Retained Senior Officers, Publica Director, Publica Group Manager or Publica Business Manager has a duty to immediately notify the Section 151 Officer

and the Monitoring Officer, who shall take such steps as they consider necessary by way of investigation and report.

E7.7 All Members and Employees, in the Council and Publica, must be aware of the maintenance of the Register of Interests, which should be updated annually or more frequently if other changes occur. Any offer of hospitality or gifts must be recorded, whether accepted or refused.

E8 Ex-Gratia / Maladministration Payments

E8.1 A payment is sometimes made to compensate someone for loss or damage incurred through no fault of the Council. Most usually, this is to an employee who has suffered loss or damage in the course of their duties but can be to a member of the public for a minor loss within the influence of the Council (such as thefts from secured lockers at Leisure Centres) This is funded through the Council's insurance arrangements.

E8.2 Compensation payments under the local complaints procedure up to £5,000 shall only be made following an investigation lead by the Section 151 Officer, and The Chief Executive and a Director or Head of Service and/or the Monitoring Officer, and with the will approval of at least two of those employeesany awards.

E8.3 Compensation payments in excess of £5,000 shall only be made following a report from one of the three employees named in Financial Rule E8.2;the Section 151 Officer above and with the following approval:-

- Amounts £5,001 to £50,000 – by Cabinet Member
- Amounts £50,001 to £400150,000 – by Cabinet
- Amounts in excess of £1500,000 – by Council

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F: ASSETS

F1 Introduction

F1.1 The Council holds assets in the form of property, vehicles, equipment, furniture, cash and other items worth many millions of pounds. It is important that assets should be safeguarded and used efficiently in the delivery of services. Assets should be used to achieve the approved policies and objectives of the Council with the minimum of waste, inefficiency or loss.

F1.2 This involves ensuring that appropriate assets are acquired, in line with the Council's Procurement Strategy; that they are recorded and kept securely and are disposed of effectively and economically when no longer required.

F2 Full Council

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F2.1 Full ~~Council~~Council is responsible for deciding the extent of the Property Portfolio and for agreeing acquisitions and disposals in line with Council's Acquisition and Disposal Policy.

F2.2 Where budgetary provision for property acquisition has been approved by Council, as part of the Council's Capital Programme, Approval is delegated to Cabinet for individual acquisitions not exceeding up to £1,500,000. Where acquisition is under the Council's Recovery Investment Strategy the threshold is £3,000,000. (for Social Housing) and not exceeding £250,000 (for other land or property), unless otherwise delegated in the constitution.

F2.23 Assets no longer required should be disposed of in accordance with the law and the rules and policies of the ~~council~~Council, so as to maximise benefits.

F3 Cabinet/Deputy Leader and Cabinet Member for Finance

F3.1 The Cabinet is responsible for approving terms for land / property acquisitions, as above F2.42.

F3.2 Cabinet has further delegated decision making powers in relation to assets to the Deputy Leader and Cabinet Member for Finance, subject to a threshold of £250,000.

F4 Chief Executive (or other delegated Officer)

F4.1 The Chief Executive (or other delegated officer) is responsible for:

- Determining applications for the assignment of leases and granting sub-leases and under-leases and other applications for consent required by leases, as delegated in the constitution.
- Signing contracts for the sale or purchase of land, for which the disposal/acquisition has been agreed by the Cabinet Member, Cabinet or Full ~~Council~~Council.

~~F5 Director or Head of Property Services (or other delegated Officer)~~Publica Group Manager with responsibility for Land and Property

F5.1 The ~~Director or Head of Property Services~~Publica Group Manager with resp-Property Services is resp-Property Services is responsible for:

- Maintaining a terrier / asset register of all properties and assets owned by the ~~Council~~Council, in a form approved by the Section 151 Officer. This shall record the purpose for which the property is held, its location, its extent and plan reference, purchase details, particulars of nature of interests and rents payable and particulars of tenancies granted.
- Advising Members, the Section 151 Officer, Cabinet, ~~Council~~Council and other Officers on property-related issues.
- Processing all authorised acquisitions and disposals of land and property.
- The maintenance of ~~Council~~Council-owned property including open-spaces. Such maintenance work to be carried out within the terms of contracts for responsive maintenance to ~~Council~~Council properties.
- ~~in the case of non-housing capital building contracts,~~ consulting with the relevant Cabinet Member and the Section 151 Officer, where the contingency sum in the contract is likely to be exceeded. Financial Rules in respect of budget approval and /or virement are to be followed.

F5.2 The ~~Publica Group Manager with responsibility for land and property Director or Head of Property Services~~ (or other delegated Officer) has authority to sell surplus equipment on receipt of bids where appropriate, with the following notifications:-

- Estimated residual value not in excess of £5,000 – in consultation with the Section 151 Officer
- Estimated residual value £5,001 to £10,000 – in consultation with Section 151 Officer. Cabinet Member to be informed.
- Estimated residual value in excess of £10,000 – in consultation with the Section 151 Officer. Cabinet to be informed.

F6 ~~Monitoring Officer (or other appropriate Officer as delegated in the Constitution)~~Council Solicitor

F6.1 The ~~Monitoring Officer~~Council Solicitor (or other delegated Officer), in consultation with the relevant Cabinet Members and relevant Ward Member(s) and the relevant ~~Director~~Chief Executive, has authority, in the case of the resale of former ~~Council~~Council houses, to give the ~~Council~~Council's consent in all cases under Section 157(1) of the Housing Act 1985 where consent is obligatory and in other cases approved by the Cabinet; and authority to approve applications for the sale of former ~~Council~~Council houses in Areas of Outstanding Natural Beauty.

F6.2 The ~~Monitoring Officer~~ Deputy Chief Executive, (or other delegated Officer), may approve transactions with a value up to £50,000 per transaction in consultation with the relevant Ward Member(s) and a 48 hour period being allowed for any response to such consultation, ~~has authority to approve all transactions relating to the council's properties (except residual housing land) within their existing classifications;~~ including:

- New leases granted by the ~~Council~~ Council
- Determination of applications for the ~~Council~~ Council's consent as landlord, required under leasehold covenants, including assignments, sub-letting and alterations/improvements
- Rent reviews
- Lease terminations (including surrenders);
- Lease renewals
- Institution of proceedings for breach of any leasehold covenant (including recovery of rent arrears and forfeiture) and enforcement of any resultant Court Order or Warrants for Possession (in consultation with the ~~Head of Property Services~~ relevant Publica Group Manager)
- Licences regulating the use or occupation of ~~council~~ Council property.

F6.2.1 Such approval (where appropriate) is to be on terms recommended by the District Valuer, or an independent Valuer.

F6.3 The ~~Monitoring Officer~~ Deputy Chief Executive (or other delegated Officer), in consultation with the relevant Cabinet Member and the relevant Ward Member(s), has authority to agree the sale of ~~Council~~ Council-owned land on terms recommended by the District Valuer, or an independent Valuer, where the following conditions are fulfilled:

- The sale price of the land and easements does not exceed £50,000 and easements up to £25,000 per annum
- The terms of the sale are not unusual or contentious.
- The Cabinet Member and the Ward Member(s) have no objection to the sale.

F6.4 The ~~Monitoring Officer~~ Deputy Chief Executive (or other delegated Officer) has similar delegated authority in relation to land purchases and easements, as set above.

F6.5 The ~~Monitoring Officer~~ Deputy Chief Executive (or other delegated Officer), in consultation with the ~~appropriate, relevant Director~~ Publica Group Manager and Publica Business Manager with responsibility for ~~Head of Property Services~~, has authority to approve the granting of way leaves, licences and other rights of use in respect of ~~Council~~ Council property.

F6.6 The ~~Monitoring Officer~~Council Solicitor (or other delegated Officer), in consultation with the Monitoring Officer or the Section 151 Officer, has the authority to instigate any investigations he/she considers necessary in particular cases regarding the lease of ~~Council~~Council-owned commercial premises.

F6.7 The ~~Monitoring Officer~~Council Solicitor (or other delegated Officer) shall have custody of all title deeds under secure arrangements agreed with the Chief Executive.

F7 Section 151 Officer

F7.1 The Section 151 Officer is responsible for:

- Ensuring that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. The purpose of an asset register is to provide the ~~Council~~Council with information about fixed assets so that they are safeguarded, used efficiently and effectively and are adequately maintained.
- Ensuring that assets are valued in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom.
- Maintaining a ~~property~~ database for all land, properties, plant and machinery, and moveable assets currently owned and used by the ~~Council~~Council.
- Managing the risk implications of the Property Portfolio, particularly in terms of insurance cover.
- Co-ordinating the security of the ~~council~~Council's administrative and operational offices.

F8 ~~Directors, Heads of Service and Budget Holders~~Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers

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F8.1 ~~Directors, Heads of Service and Budget Holders~~The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers are responsible for:

- Ensuring that records and assets are properly maintained.
- Drawing up contingency plans for the security of assets and continuity of service in the event of disaster or system failure.

- Ensuring that lessees and other prospective occupiers of [Council](#) land or property are not allowed to take possession or enter the land until a lease or agreement has been established. The lease or agreement should be in a form approved by the [Head of Property Services](#) [Council Solicitor](#), in consultation with the Section 151 Officer and the Monitoring Officer, where appropriate.
- Ensuring the proper security and safe custody of all buildings, vehicles, equipment, furniture, stock, stores, money and other property belonging to the [Council](#).
- Where land or buildings are surplus to requirements, preparing a report containing a recommendation for the disposal of the land, in consultation with the Head of Property Services and the Section 151 Officer.
- Maintaining an inventory of moveable assets (all furniture, fittings and equipment, plant and machinery) above the value of £~~500~~[1,000](#), held within his or her areas of responsibility. The Director or Head of Information Community Technology shall maintain a separate register of all ICT equipment, on behalf of the [Council](#), as per financial rule F9.2.
- Passing title deeds of [Council](#) property to the Monitoring Officer who is responsible for the custody of all title deeds on behalf of the [Council](#).
- Ensuring that [Council](#) assets are not taken, borrowed or used by a Member or Employee for their personal use without proper authority.
- Ensuring, in accordance with arrangements agreed by the Section 151 Officer that all assets are correctly identified and insured.
- Notifying the Section 151 Officer and the Director or Head of Property Services of any proposals to acquire or dispose of [Council](#) property.
- Arranging for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.
- Ensuring that all Employees under their management are aware that they have a personal responsibility with regard to safeguarding the [Council](#)'s assets and information, including the requirements of the [General Data Protection Acts](#) [Regulations](#) and software copyright legislation. This should include confidentiality of information, whether held in manual or computerised records.

F9 Information and Communication Technology (ICT)

F9.1 All ICT equipment, irrespective of its individual value, shall be procured by, or with the prior approval of the [Publica Director](#) or [Publica Group Manager](#) ~~Head of Service~~ responsible for ICT Services (or his or her delegated Officer), particularly where the equipment has a strategic value or requires network access.

F9.2 This ~~Director~~ [Publica Group Manager](#) or delegated Officer shall maintain a register of all ICT equipment above the value of ~~£250-500~~ owned by the ~~council~~ [Council](#), including its location and serial number.

F9.3 Certain equipment, to be determined by the [Publica Director](#) or ~~Head of Service~~ [Publica Group Manager](#) responsible for Information Communication Technology, such as cameras, ~~blackberries~~ [mobile phones](#), etc shall be procured by him or her and recorded in the ICT ~~–~~ inventory.

F9.4 The ~~Council~~ [Council](#)'s internal IT policy and guidance should be followed, and in particular, no unofficial or unlicensed software shall be used on the ~~council~~ [Council](#)'s computer equipment, under any circumstances.

F9.5 Computer games supplied as part of licensed software shall not be played in ~~council~~ [Council](#) time.

F10 Stocks and Stores

F10.1 Disposable items such as stationery, goods for sale or materials may be held in store. They should be properly controlled and accounted for to ensure they are used only for ~~council~~ [Council](#) purposes.

F10.2 Stocks shall not be in excess of normal requirements except in special circumstances, with the approval of ~~a member of the Council Management Team the Director or Head of Service~~, who shall keep a written record and justification of such circumstances.

F10.3 Each [Publica Director](#) or ~~Publica Group Manager~~ [Head of Service](#) shall be responsible for the care and custody of the stocks and stores within his or her service(s).

F10.4 [Publica Directors](#) or ~~Heads of Service~~ [Publica Group Managers](#) shall arrange for periodical test examinations of stocks and ensure that all stocks are checked at least once a year, where appropriate, as determined by the Section 151 Officer. This is to be under the supervision of persons without direct responsibility for the custody of the stocks or stores being checked.

F10.5 The Section 151 Officer shall be entitled to receive from each [Publica Director](#) or ~~Head of Service~~ [Publica Group Manager](#) such information as he or she requires in relation to stocks or stores, for the accounting, costing and financial records at the financial year end.

F10.6 Budget holders are responsible for investigating discrepancies and pursuing them to a satisfactory conclusion. Where this is not possible or the

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amount is over £250, this should be reported to the Section 151 Officer and Head of Internal Audit.

F10.7 Adjustments in respect of stock deficiencies and surpluses shall be subject to the approval of the Section 151 Officer, ~~or in the case of major items, the Cabinet.~~

F10.8 Private individuals or companies shall not be permitted to purchase items previously acquired by the ~~council~~Council unless they:

- Are sold through a retail outlet incidental to the provision of a specific service (e.g. Leisure centre or Museum shop), or
- Are obsolete or surplus to requirements and are sold as a means of disposal, in accordance with the ~~council~~Council's disposal policies.

F10.9 Individual Members and Employees of the ~~council~~Council must not use the auspices of the ~~council~~Council to purchase works, goods or services for their personal use.

F11 Write-offs

F11.1 Limit of the ~~council~~Council to write off and/or dispose of obsolete stock, per individual item:

- Estimated residual value up to £250 ~~– Directors or Heads of Service~~Chief Executive.
- Estimated residual value over £250 - Section 151 Officer.

F11.2 At any one time up to £5,000 may be written out of stock records with the Section 151 Officer approval. If the accumulated amount to be written out exceeds £10,000 during the financial year, a report must be made to Cabinet. Individual amounts in excess of £5,000 shall be approved by Cabinet.

F12 Petty Cash and Cash Floats

F12.1 Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without ~~his or her~~their express permission.

F12.2 The Section 151 Officer may provide petty cash advance accounts or cash floats for such Employees as may need them for the purpose of defraying petty cash or other expenses. Petty cash accounts shall be maintained in the imprest system and shall be controlled by the Employee designated by the ~~Council Management Team or relevant Publica Director~~ Council Management Team or relevant Publica Director ~~Group Manager.~~concerned.

F12.3 Payments from any such account shall be limited to minor individual items of expenditure up to a maximum of £50. The Section 151 Officer has discretion to allow larger payments in exceptional circumstances.

F12.4 All payments shall normally be supported by a receipted voucher and proper VAT receipts where appropriate. However, the Section 151 Officer has discretion to allow payments to be obtained without obtaining receipts in exceptional circumstances.

F12.5 Payments in reimbursement of travelling or subsistence expenses shall not be paid out of petty cash accounts.

F12.6 An employee responsible for a petty cash or cash float shall, if so requested, give the Section 151 Officer a certificate as to the state of such a float.

F12.7 Change floats are not to be used for any other purpose than for providing change, with the exception of cash advances in special circumstances, subject to the approval of the Section 151 Officer. Such approval should be recorded.

F12.8 When an Employee responsible for such an account leaves the employment of the ~~council~~[Council or Publica](#), or ceases to be entitled to hold an advance, ~~the Chief Executive or his~~ or her ~~Director~~ or ~~Head of Service~~[Publica Group Manager](#) shall ensure that he or she accounts ~~to him~~ for the amount advanced.

F13 Intellectual Property

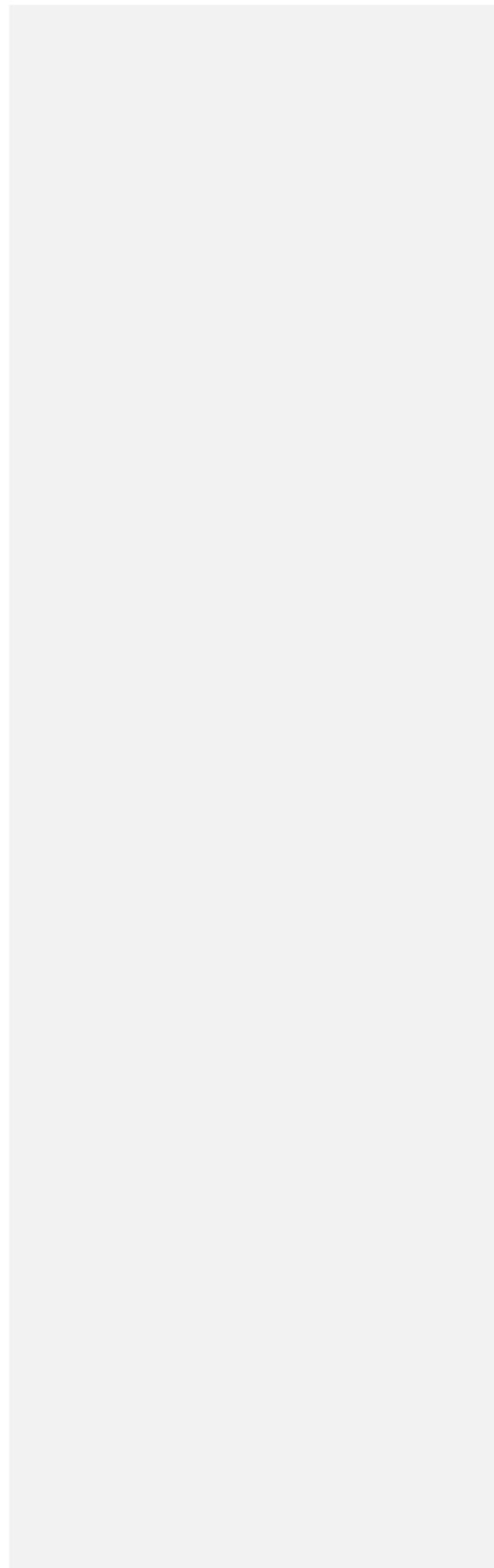
F13.1 Intellectual Property is a generic term that includes inventions and writing. If these are created by an Employee during the course of employment, as a general rule they belong to the Employer. There is a variety of legislation covering different types of intellectual property.

F13.2 Certain activities undertaken by the ~~council~~[Council](#) may give rise to items which are patentable e.g. the development of software. These are collectively known as Intellectual Property.

F13.3 The Monitoring Officer, in conjunction with Section 151 Officer shall determine a policy and procedure guidance relating to intellectual property of the ~~Council~~[Council](#).

F13.4 ~~Directors and Heads of Service~~[The Chief Executive, Publica Directors and Publica Group Managers](#) are responsible for implementing the ~~council~~[Council](#)'s intellectual property procedures and for putting controls in place to ensure that Officers do not carry out private work in the ~~council~~[Council](#)'s time.

F13.5 Officers should be made aware of the Employer's rights with regard to intellectual property.



G: TREASURY MANAGEMENT

G1 Introduction

G1.1 Many millions of pounds pass through the [Council's](#) books each year and must be carefully managed in a way which balances risk with return, but with the overriding consideration being the security of the [Council's](#) funds.

G1.2 The general policy objective is that the [Council](#) should invest prudently the surplus funds held on behalf of the community, giving priority to security and liquidity of the funds.

G1.3 The [Council](#) has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities. All of the [Council's](#) borrowings and investments are carried out in accordance with this code.

G2 Full [Council](#)

G2.1 Full [Council](#) is responsible for approving the Treasury Management [Policy / Strategy and the associated Investment Strategy and Capital Strategy Statement](#). [The Strategies are proposed by the Cabinet and settling out the matters detailed in CIPFA's Code of Practice for Treasury Management in Local Authorities and the Prudential Indicators as part of the Prudential Code.](#)

[G2.2 Full Council is responsible for monitoring performance against the Treasury Management Strategy and the Prudential Indicators.](#)

G3 Cabinet or other appropriate Committee

G3.1 The Cabinet is responsible for:

- ~~Proposing the Treasury Management [Policy Statement](#) [Strategy, Capital Strategy and Investment Strategy](#) to the [Council](#), in accordance with advice from the Section 151 Officer.~~
- ~~Decisions relating to Treasury Management within the [Policy Statement](#).~~
- ~~Deciding an annual [Treasury Management Strategy Statement and Annual Investment Strategy](#).~~
- Implementing and monitoring performance against the Treasury Management [Policy Statement](#).
- Delegating responsibility for borrowing, investment and financing to the Section 151 Officer.

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G4 Section 151 Officer

G4.1 The Section 151 Officer is responsible for:

- Controlling all money in the hands of the [Council](#).
- Acting in accordance with the CIPFA's Code of Practice for Treasury Management in Local Authorities.
- Reporting to the Cabinet a proposed Treasury Management Strategy for the coming financial year at or before the start of the financial year.
- Implementing and monitoring the [Council's](#) Treasury Management Statement.
- Reporting to the Full [Council](#) twice in each financial year on treasury management activity and prudential indicators and the exercise of his or her delegated treasury management authority. One such report will comprise an annual report on treasury management outturn, for presentation by 30th September of the succeeding financial year.
- Ensuring that all investment and borrowing is made in the name of the [Council](#).
- Ensuring that all securities that are the property of the [Council](#) and the title deeds of all property in the [Council's](#) ownership are held securely.
- Acting as the [Council's](#) registrar of stocks, bonds and mortgages and maintaining records of all borrowing and investment of money by the [Council](#).
- Arranging for all trust funds to be held, where possible, in the name of the [Council](#). All Officers acting as Trustees by virtue of their official position, shall deposit securities, etc. relating to the trust with the Section 151 Officer unless the deed otherwise provides.
- Where funds are held on behalf of third parties, arranging for their secure administration, approved by the Section 151 Officer, and maintaining written records of transactions.
- Ensuring that all trust funds are operated within any relevant legislation and the specific requirements of each trust.

G5 Banking Arrangements

G5.1 The Section 151 Officer is responsible for:

- Operating bank accounts as he/she considers necessary. No bank accounts may be opened in the [Council/Council](#)'s name, or closed, without the prior approval of the Section 151 Officer.
- Instructing the [Council/Council](#)'s bankers to prohibit an overdrawn position on the aggregate bank accounts of the [Council/Council](#) beyond the level set out in the facilities agreement between the [Council/Council](#) and its bankers.
- Ensuring that an up to date list of all authorised bank signatories on the [Council/Council](#)'s bank accounts is maintained and made available to the [Council/Council](#)'s bankers.
~~Designated Officers, employed by Publica, from within GO Shared Services are permitted to act as authorised bank signatories for each of the councils being served by the Shared Services.~~
- Ensuring that an up to date list of Officers holding Business Charge Cards, ~~or~~ Government Procurement cards and Credit Cards on behalf of the [Council/Council](#) is maintained, showing individual approved credit limits.
- Advising on secure arrangements for banking and cash handling.
- Authorising the provision of change floats at the request of the [Chief Executive, Publica](#) Directors or ~~Heads of Service~~[Publica Group Managers](#) (see Petty Cash Financial Rules).
- ~~• Ensuring that designated Officers within GO Shared Services are given access to the bank account details of each of the councils being served by the Shared Service, to facilitate transactional processing and other finance related work, as required.~~

G5.2 The Chief Executive, Publica Directors and Heads of Service[Publica Group Managers](#) are responsible for:

- Ensuring that banking and cash handling is carried out in accordance with Financial Rules.
- Ensuring that Officers are properly trained and aware of their responsibilities.
- Ensuring that Officers are personally protected against risk.
- Ensuring 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 [Council/Council](#), following consultation with the Section 151 Officer.

G5.3 Budget Holders are responsible for:

- Ensuring that all Officers are aware of the controls required over banking and cash handling and follow instructions thereon.
- Ensuring that cash held on the premises is kept to a minimum, held securely, and is always within the limits agreed with the [Council](#)'s insurers. Cash in excess of these limits should be banked before the end of the day. Cash should not be held at an Officer's home as this may negate the [Council](#)'s insurance cover.
- Holding change floats issued to the service by the Section 151 Officer and accounting for them when required to do so.
- Ensuring that keys to safes and other receptacles used for holding cash are kept secure by the person of those responsible at all times. Loss of keys must be reported to the Section 151 Officer as soon as possible.
- Ensuring that, where money passes from one Officer to another, there are procedures in place to evidence the transfer, the amount and the certification of the Officers involved.
- Ensuring that [Council](#) money is not kept with or confused with unofficial funds, e.g. tea, lottery or pools funds.
- Ensuring that payments are not made from cash received.
- Implementing documented procedures for recording, receipting and banking money. Banking should be carried out as frequently as is necessary to keep the amount of money within insurance limits. Each deposit to the bank should be accompanied by a properly completed bank paying-in slip showing:
 - the name and title of the Officer making the banking.
 - the total deposited, analysed in denominations of cash and cheques.
 - the name of the cheque payees and a debtors reference, where this is available, on the reverse of the slip (also on the reverse of the cheque where payment is by cheque).

N.B. Cheques received to a value in excess of £10,000 must be banked at the earliest opportunity but in any event within 3 days of receipt.

- Reconciling income records to the [Council](#)'s financial information system, checking that all money received has reached the correct budget head. Discrepancies should be investigated and corrected immediately.

G6 BACS Payments and Cheques

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G6.1 The payment of all monies from the [Council](#), with the exception of sums payable from advance accounts or business credit cards, shall be by BACS or other instrument drawn on the [Council](#)'s bank account by the section 151 Officer, including cheques when payment by BACS is not possible or appropriate.

G6.2 All BACS transmissions, irrespective of value, will be supported by an authorisation form signed by the Officer responsible for producing the payment, plus either the Section 151 Officer or another authorised bank signatory.

G6.3 All individual cheques drawn for an amount in excess of £25,000 shall be countersigned by another authorised Employee, who shall be an authorised bank signatory to the bank account.

G6.4 All cheque stocks shall be ordered only on the authority of the Section 151 Officer, who shall make proper arrangements for their safe custody.

G6.5 All cheques drawn on the [Council](#)'s main bank accounts shall bear the facsimile signature of the Section 151 Officer or other employee authorised to do so.

G6.6 All manually prepared cheques for an amount in excess of £5,000 shall be countersigned by another authorised employee, who shall be an authorised bank signatory to the bank account.

H: FINANCIAL SYSTEMS AND ACCOUNTING PROCEDURES

H1 Introduction

H1.1 Sound systems and procedures are essential to an effective framework of accountability and control. They are needed to ensure that accounting records can be relied upon to present a true and fair view of the [Council's](#) financial activity and that management information is appropriate, accurate and timely.

H1.2 The [Council](#) must operate within legal requirements and adopt best practice guidance. The [Council](#) will follow the CIPFA Code of Practice on Local Authority Accounting and the Service Reporting Code of Practice for Local Authorities.

H2 Section 151 Officer

H2.1 The Section 151 Officer has a statutory and professional responsibility for ensuring that the [Council's](#) financial systems are sound and for making arrangements for the proper administration of the [Council's](#) financial affairs, including:-

- Selecting suitable accounting policies that comply with legislation and best practice guidance, and ensuring that they are applied consistently.
- Determining the accounting systems and procedures, form of accounts and supporting financial records.
- Ensuring that delegated Officers within ~~the GO Shared Services Publica~~ are given access to the financial records of ~~each of the Councils being served by the Shared Service~~, to facilitate transactional processing and other finance related work, as required.
- Issuing advice, guidance and procedures for Officers and others acting on the [Council's](#) behalf.
- Establishing arrangements for the audit of the [Council's](#) financial affairs.
- Approving any new financial system to be introduced and any changes to be made to existing financial systems.
- Producing timetables for accounting tasks such as the production of budgets and final accounts and the collection or submission of other financial information for processing (e.g. Accounts Payable deadlines).

- Ensuring that all suspense and holding accounts are controlled and reconciled on a monthly basis.
- Ensuring that all bank accounts are controlled and reconciled to the main accounting system regularly (at least monthly) to confirm that all transactions have been processed into the ~~Council~~Council's accounts.

H2.2 The Section 151 Officer has a statutory responsibility for ensuring that the annual Statement of Accounts is prepared in accordance with the CIPFA Code of Practice on Local Authority Accounting and the Service Reporting Code of Practice for Local Authorities.

H3 ~~Directors, Heads of Service and Budget Holders~~Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers

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H3.1 ~~Each~~The Chief Executive, Publica Directors ~~or and~~ ~~Head of Service~~Publica Group Managers shall ensure that all financial and computerised systems for which he or she is responsible are adequately controlled and comply with the requirements laid down by the Section 151 Officer. Any proposed changes to these systems / procedures or any new systems / procedures must be also approved by the Section 151 Officer.

H3.2 ~~The Council's Retained Senior Officers, Publica~~ Directors, ~~Heads of Service~~Publica Group Managers, Publica Business Managers and Budget Holders are responsible for:-

- The proper operation of financial processes in their areas of responsibility and ensuring that all Officers under their management are aware of, and properly operate, the financial systems relevant to their area of work.
- Establishing and maintaining sound financial processes within their areas of management.
- Documenting systems and ensuring that Officers are properly trained in their use.
- Ensuring that financial transactions are recorded in a timely and accurate manner, and are processed into the main accounting system using correct accounting codes. Transactions should not be processed to incorrect accounting codes as a way of avoiding virement rules.
- Using only their own accounting codes unless they have the express written permission of another Budget Holder to use theirs.
- Properly recording the nature and value of income, expenditure and assets and referring to original documentation where possible.

- Ensuring that income and expenditure are accounted for separately and are not set off against each other.
- Accounting for revenue and capital income and expenditure separately.
- Maintaining a complete audit trail allowing financial transactions to be traced from the accounting records to the original documentation and vice versa.
- Ensuring that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements under [General Data Protection legislation Regulations](#), approved by the Section 151 Officer.
- Implementing organisational structures that provide adequate segregation of duties to minimise the risk of fraud, error or other malpractice. In particular, ensuring that Employees charged with the duty of examining and checking the amounts of cash transactions (or cash equivalents) shall not themselves be engaged in any of these transactions.
- Establishing an effective scheme of delegation, identifying Officers authorised to act on their behalf in respect of financial transactions, determining the limits of their authority and ensuring that the scheme operates effectively.
- Supplying a written record of authorised Officers within his or her area of responsibility, with specimen signatures and delegated limits, to the Section 151 Officer, and ensuring they are maintained up-to-date. [The Council Management Team and Publica](#) Directors shall still remain responsible for the activities of delegated functions.
- Implementing and documenting effective contingency arrangements in a disaster recovery plan, including back-up procedures, to allow systems to resume operation quickly in the event of an interruption in service. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off-site, or in an alternative location within the building.
- Ensuring that computer and other systems are registered in accordance with [General Data Protection legislation Regulations](#) and that staff are aware of their responsibilities under this and the Freedom of Information legislation.
- Carrying out accounting tasks to meet the standards and timescales set by the Section 151 Officer or his delegated Deputy.

H4 Employees

H4.1 ~~Each nominated e~~Employees shall ensure that all ~~financial and finance~~ related systems ~~(for example, register of disabled facilities grants, housing benefit payment, registers of property leases)~~ are reconciled, as far as is ~~reasonably practical,~~ to the ~~council~~Council's main financial management system. ~~Reconciliations shall take place on a minimum of once per quarterly,~~ ~~unless more frequent reconciliation is required by the Section 151 Officer.~~

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H4.2 Any amendments to a prime record should be made in ink and initialled by the Employee making it. Correcting fluid, or any other means of obliteration, shall not be used to amend prime financial records.

H5 Orders for Work, Goods and Services

H5.1 Requisitions and official orders shall, in addition to any requirement under the ~~Contracts Procedure~~Contract Rules, be in a form approved by the Section 151 Officer and are to be authorised only by Employees designated for that purpose.

H5.2 Requisitions and official orders shall be issued for all works, supplies or services to be supplied to the ~~council~~Council, except for supplies of public utility services, periodical payments such as rent or business rates, for petty cash purchases or such other exceptions as the Section 151 Officer may approve.

H5.3 Requisitions or official orders shall clearly indicate the nature and quantity of the work or services required and any relevant contract or agreed prices.

H5.4 Each requisition and order shall conform to the guidelines contained in the ~~council~~Council's ~~Contract Procedure Rules~~Contract Rules.

H5.5 Prior to placing an order Employees shall ensure that provision has been made in the budget for the cost of the works, goods or services to be supplied. ~~Where applicable, these should comply with European Community Directories and prescribed procedures.~~

H5.6 All goods and services shall only be ordered by an authorised Officer, in accordance with written delegations and procedures.

H5.7 All orders for goods and services must be approved by budget holders before being issued to the supplier. The approval limits will normally be assigned in accordance with the following levels of authority:-

- Authorised Budget Holder –Up to £10,000, subject to individual approved limit
- Manager up to £50,000, subject to individual approved limit

- Manager, Director or [Head of Service/Group Manager](#) up to £100,000, subject to individual approved limit
- Director up to £250,000
- Section 151 Officer, Deputy Section 151 Officer ~~or~~; Chief Executive ~~or~~ [Head of Paid Service](#) £unlimited

~~Each~~ [The Chief Executive, Publica](#) Director or [Publica Head of Service/Group Manager](#) will agree the appropriate approval limit for individual Officers within their service with the Section 151 Officer or Deputy Section 151 Officer, based on their level of responsibility and/or their budget amounts.

H5.8 All ICT equipment, irrespective of its individual value, shall only be procured by, or with the prior approval of the [Publica](#) Director responsible for ICT Services (or his or her delegated Officer), particularly where the equipment has a strategic value or requires network access.

H5.9 All goods and services received shall be checked, to ensure that they are in accordance with the order, are for the correct quantity and quality standards and that any work has been completed satisfactorily. Proper entries shall be made in inventories or stores records, where appropriate.

H5.10 All orders should be checked to ensure prices, calculations, trade discounts, other allowances and credits are correct

H5.11 All expenditure, including VAT shall be accurately recorded against the correct allocated budget and any exceptions corrected.

H5.12 All appropriate evidence of the transaction and payment documents shall be retained and stored for the defined period, in accordance with the ~~council~~ [Council](#)'s document retention schedule.

H6 Payment of Accounts

H6.1 The payment of all monies from the ~~council~~ [Council](#), with the exception of sums payable from advance accounts or business credit cards (if applicable), shall be by BACS or other instrument drawn on the ~~council~~ [Council](#)'s bank account by the section 151 Officer, including cheques when payment by BACS is not possible or appropriate.

H6.2 Payment will only be made if the budget holder is satisfied that the requirements of Financial Rules H5.9 and H5.10 have been met. All payments should be made to the correct organisation /individual, for the correct amount.

H6.3 VAT invoices must not be altered. If the amount of the invoice is incorrect, either a replacement or a credit note shall be requested

H6.4 Purchase invoices received into a department shall be passed without delay to the ~~GO Shared Service, the Finance Team~~ ial Services, to be examined as considered necessary. For this purpose, ~~Financial Services~~ Finance are entitled to make such enquiries and to receive such information and explanation as they may require.

H6.5 Payment will not be made on the basis of a statement or a reminder account.

H6.6 Payments shall be made within 30 days of receipt by the ~~council~~ Council or within any mutually agreed terms, in order to avoid the possibility of penalty interest becoming payable.

H6.7 Any penalty interest becoming payable under the Late Payment of Commercial Debts (Interest) Act 1998 shall be charged back to the appropriate budget head unless, in the view of the Section 151 Officer, unreasonable delays were occasioned by another Employee.

H6.8 The Chief Executive or Aa Publica Director must consult with the Section 151 Officer before entering into any mutual payment terms with a supplier. All such agreements must be made in writing.

H6.9 Prepayment for goods and services should be avoided where possible, in order to minimise risk to the ~~council~~ Council. If a prepayment is unavoidable then it should be approved by the ~~GO Shared Services~~ the Deputy Section 151 Officer.

H7 Payments to Employees and Members

H7.1 The interpretation and application of pay scales, conditions of service and other related matters shall be the responsibility of the ~~Head of Paid Service (Chief Executive)~~, with whom ~~Directors~~ the Monitoring Officer and Section 151 Officer shall confer, as necessary, in connection with their application to employees in their areas of responsibility.

H7.2 The Section 151 Officer is responsible for ensuring that budget provision exists for all existing and new employees and for making all payments of salaries ~~and wages~~ to all staff and Members, in accordance with agreed terms and conditions and timescales.

H7.3 The Section 151 Officer is responsible for the maintenance of proper national insurance, income tax and other statutory pay records and for the accurate and timely payment of pension contributions and other deductions to third parties.

H7.4 The ~~GO Shared Services Head of~~Publica Business Manager with responsibility for ~~Human Resources~~, in consultation with the Section 151 Officer, shall approve and control the arrangements for payments of salaries and wages to all staff, including the process for payments for overtime and for payment of allowances to Members.

H7.5 ~~The Chief Executive, Monitoring Officer, Section 151 Officer Directors~~ and/or Managers must notify the ~~GO Shared Services~~Publica HR team, as early as possible of all appointments, dismissals, resignations, absences from duty, transfers and proposed changes of employees, together with such other information as is necessary to maintain adequate personnel records for the ~~council~~Council.

H7.6 No new appointments or changes to arrangements for existing employees are permitted without adequate budget provision. All appointments shall be made in accordance with the ~~council~~Council's rules and approved establishments, grades and scales of pay.

H7.7 ~~The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers, Publica Business Managers~~ and/or budget holders are responsible for the monitoring of spending against approved employee-related budgets, ensuring that the manpower budget is not exceeded without appropriate authority and that it is managed to enable the agreed level of service to be provided.

H7.8 All Employees and Members shall notify the ~~GO Shared Services~~Publica, Human Resources Service of any discrepancy between what they expected to be paid and what they have received, including payments made in error. In the event of an overpayment the recipient will normally be asked to refund the ~~council~~Council over the same time period for which the error was made. If the ~~council~~Council makes an underpayment it will be corrected as soon as is reasonably practical, each case being agreed individually. Failure to report an overpayment may result in disciplinary action.

H8 Travel and Subsistence Claims

H8.1 Claims for payment of allowances, travelling and subsistence following the process approved by the ~~GO Shared Services~~Publica Business Manager with responsibility for ~~Head of~~Human Resources, in consultation with the Section 151 Officer.

H8.2 Claims shall normally be submitted monthly and always by the end of April following the financial year end. Employees are responsible for ensuring that journeys made and expenses claimed have been properly incurred and supporting VAT receipts are obtained. All claims to be authorised by an employee's line manager.

H8.3 The ~~council~~Council reserves the right not to pay any travel and/or expense claims that are not submitted in a timely manner, without good reason. Line Managers are responsible for approving or not approving all claims. In the case of any queries, line Managers should consult with the ~~Chief Executive, the Publica~~ ~~ir~~ Director or ~~Head of Service~~Publica Group Manager as appropriate.

H9 Value Added Taxation

H9.1 The Section 151 Officer is responsible for advising ~~Directors and Heads of Service~~the Chief Executive and Members, in the light of guidance by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the ~~council~~Council. Written advice shall be made available to all relevant Employees.

H9.2 The Section 151 Officer is responsible for maintaining the ~~council~~Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

H9.3 The Section 151 Officer or his /her authorised representative shall be responsible for liaising with HM Revenue and Customs on all VAT related matters and for submitting and signing the necessary returns/claims in a timely manner.

H9.4 VAT must be correctly claimed on expenditure (Input Tax) and valid tax invoices retained by the ~~council~~Council

H9.5 VAT must be correctly charged on income from works, goods and services supplied by the ~~council~~Council (Output Tax) and a valid VAT invoice or VAT receipt issued to any party outside the ~~council~~Council, in accordance with the form approved by the Section 151 Officer.

H9.6 Under no circumstances shall an Officer or Member use the auspices of the ~~council~~Council to purchase goods or services for their own private purposes to avoid paying VAT. To do so may result in disciplinary action.

H10 Trading Accounts / Business Units

H10.1 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units. These shall be accounted for in accordance with CIPFA's Service Reporting Code of Practice.

H10.2 The Section 151 Officer shall be consulted if a business unit wishes to enter into a contract with a third party, where the contract exceeds the remaining life of their main contract with the ~~council~~Council. In general, such contracts should not be entered into unless they are capable of being terminated within the main contract period without penalty.

H10.3 A service designated as a trading service may increase expenditure estimates approved by the ~~Council~~Council, in consultation with the ~~relevant Director~~Chief Executive and Cabinet Member and the Section 151 Officer as a result of increased income, in line with the virement rules set out in the Financial Rules.

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H10.3 A trading account or business unit ~~for the provision of sports, recreation or cultural activities~~ may increase its fees and charges during the year in order to remain in line with competitors and demand, in consultation with the relevant Cabinet Member.

H11 Journals

H11.1 All journal entries and other daily input into the Financial Management system (~~Aggresso~~Business World) may only be processed by authorised Employees, with the approval of the Section 151 Officer. This will normally be restricted to Officers within ~~the GO Shared Services~~, Financial Services.

H11.2 Journals shall only be processed within the general ledger of the ~~council~~Council. No journals are permitted between different company/~~council~~Council general ledgers.

H11.3 The ~~GO Shared Services Head(s) of Finance~~Publica Business Manager for Finance is responsible for ensuring that a ~~daily~~monthly report of all journals raised on the finance system is produced, ~~checked, signed~~ and retained for audit purposes. ~~This report shall be checked and signed as agreed by a delegated senior Officer within GO Shared Services.~~

I: INCOME

I1 Introduction

I1.1 The ~~council~~Council seeks to maximise its income to enable it to meet its financial objectives. The Local Government Act 2003 enables authorities to charge for discretionary services. Sources of income need to be identified and fees and charges authorised at an appropriate level.

I2 Cabinet

I2.1 The Cabinet is responsible for:-

- Setting fees and charges for services, approved as part of the annual budget setting process.
- Approving procedures for the write off of bad debts.
- Approving the write off of bad debts in excess of the approved Section 151 Officer limit, under Financial Rule 19

12.2 Statutory fees and charges shall be set in accordance with the relevant legislation and the prescribed notice period for changes to fees and charges shall be given.

12.3 Non statutory fees and charges may be increased or reduced during the year ~~by the Director or Budget Holder,~~ in order to remain in line with competitors and demand. The decision to be taken, in consultation with the relevant Cabinet Member.

13 Section 151 Officer

13.1 The Section 151 Officer is responsible for:-

- Agreeing arrangements made for the collection of income due to the ~~council~~Council and approving the procedures, systems and documentation for its collection.
- Ensuring that all claims for funds, including grants are made by the due date
- Agreeing the arrangements for ordering and supplying all receipt forms, books or similar items and satisfying him/herself regarding the arrangements for their control.
- Operating the approved procedures for the write off of bad debts (Financial Rule I9).
- Recommending to Cabinet the fees and charges to be set for all services.

14 ~~Directors and Heads of Service~~Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers

14.1 Each Publica Director, or Head of Service~~Group Manager or Business Manager~~ is responsible for:-

- Recommending to the Section 151 Officer ~~the~~ fees and charges to be set for goods or services falling within their control, apart from those charges fixed on a statutory or nationally agreed basis.

This shall not apply to ad-hoc charges of a minor nature where a flexible pricing policy has been agreed, charges associated with partnership working which are set on a cost recovery basis, or rechargeable works.

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- Informing the Section 151 Officer and relevant Cabinet Member of the particulars of all new sources of income arising from the work of their service, as soon as it becomes known.
- The identification, prompt collection, control and monitoring of all income due to the [Council](#) within their area of responsibility.

15 Budget Holders

15.1 Budget Holders are responsible for:-

- Identifying all activities in their areas of management for which charges should be made, to whom, when, how much and whether VAT should be added.
- Maximising income within the [Council](#)'s policies and legislation.
- Maintaining a record of all income due to the [Council](#), including details of contracts, leases, grants and other arrangements.
- Ensuring that all income generated by their service is accounted for and that proper records are maintained, using systems and documentation approved by the Section 151 Officer.
- Ensuring that all Employees under their management are aware of, and operate, the internal controls that exist in their area.
- Where money is to be collected by debtor account, ensuring that the details of work done, goods supplied, services rendered or other amounts due, are correctly recorded and the debtor accounts rendered promptly.
- Assisting in the collection of debts that they have originated by providing further information requested by the debtor and by pursuing the debt on the [Council](#)'s behalf and taking prompt action to recover debts, in conjunction with the Section 151 Officer, whilst having regard for the cost of collection. Debtor accounts should be reviewed regularly to identify unpaid accounts and recovery action required.
- Where responsibility for the collection of a debt has not been passed to the Section 151 Officer, establishing and initiating appropriate recovery procedures, including legal action, where necessary, for debts which have not been paid promptly.
- Ensuring that at least two employees are present when post is opened so that money received by post is properly identified, recorded and accounted for.

- Securing all income to safeguard against loss or theft and ensuring the security of cash handling.
- Ensuring that income is paid fully and promptly into the appropriate [Council](#) bank account in the form in which it is received and that appropriate details are recorded on the paying-in slip to provide a complete audit trail.
- Ensuring that no expenditure is paid from income received.
- Reconciling income systems with the [Council](#)'s main accounting system, as far as is reasonably practical, monthly to ensure that all income received has reached the correct budget head and investigating where there is a discrepancy. Reconciliations shall take place on a minimum of once per quarter.
- Monitoring levels of income received and outstanding to establish trends and anomalies which should be investigated.
- Notifying the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31st March, in line with the financial year end timetable.

16 Employees

16.1 Personal cheques must not be cashed from [Council](#) money nor cash advances taken against credit card transactions out of any money held on behalf of the [Council](#).

17 Accounts Receivable (Debtors invoices)

17.1 A Budget Holder or ~~delegated Officer~~ [Publica Business Manager](#) must authorise all debtors' invoices for amounts less than £5.00, and all credit notes raised, irrespective of value.

17.2 VAT must be properly recorded. Failure to do so may result in the [Council](#) being unable to reclaim VAT and, in some circumstance, a penalty payment imposed by HMRC.

17.3 Cash payments must be checked on receipt. In situations where electronic receipting is not available, an official, sequentially numbered receipt must be issued for a cash payment at the time of its receipt. A receipt must be issued for other forms of payment if requested by the payer. The transfer of all money between officers must be documented and the recipient should sign a receipt.

17.4 Payments received in “Full and Final Settlement” shall only be accepted and accounted for if they are sufficient to clear fully the appropriate debt, unless with the approval of the Section 151 Officer and the Monitoring Officer.

18 Debt Recovery Procedures

18.1 Once raised, a debtor’s invoice may not be cancelled except by full payment, the issue of a credit note or by its formal writing off. A credit note can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, or to recognise that an overpayment of housing benefit is being recovered from an on-going benefit entitlement.

18.2 There must be proper documented systems for the payment of outstanding debtors’ invoices, including milestones and timelines, which shall be followed by delegated Officers.

18.3 Outstanding debtors that are to be chased through legal proceedings are to be dealt with following the ~~ecouncil~~[Council](#)’s debt recovery procedures.

18.4 Interest can be charged on unpaid debts, in accordance with the debt recovery policy.

18.5 Solicitor fees incurred in the recovery of unpaid debt can be charged to the debtor, in accordance with debt recovery policy.

19 Write off of unrecoverable Debts

19.1 The limits on the ~~ecouncil~~[Council](#) to write off individual debts are:-

- The Section 151 Officer can write off any debt for which a bankruptcy or liquidation notice has been received.
- The Section 151 Officer can write off any debt of a deceased person who has a nil estate.
- The Section 151 Officer can write off any other individual debt to a maximum amount of £5,000, where the amount is unlikely to be recovered or where proceedings are inappropriate or unjustified. This authority cannot be delegated.
- All other individual debts, in excess of £5,000 can only be written off with the approval of Cabinet or other delegated Committee.

19.2 The value of unrecoverable debts written off will be charged back against the cost centre / service from which the original invoice was raised, thus

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canceling the original credit to the service. This can be overwritten in exceptional circumstances, with the approval of the Section 151 Officer.

19.3 A record will be maintained by the Section 151 Officer of all bad debts written off under delegated approval given by Financial Rules above.

19.4 The Section [151 Officer](#) can delegate the waiving of standard off-street car park charge notices to the ~~Director or Head of Service~~[Publica Group Manager](#) responsible for Car Parking, who shall maintain records detailing the reason and amounts waived. This authority cannot be delegated further. [The number and value of waivers is to be reported to the Section 151 Officer and the Cabinet Member on a quarterly basis](#)~~The records shall be made available to the Section 151 Officer or Cabinet on request.~~

J: COUNCIL TAX AND NON-DOMESTIC RATES

J1 Introduction

J1.1 The Council collects large amounts of money for its own purposes, for other authorities and, in the case of Non-Domestic Rates, for the Government.

J1.2 The rules that apply to the collection of these sums are set out in legislation, regulation and good practice guidance.

There are documented procedures and a timetable for tax calculation, billing, refunds, recovery and enforcement that accord with statutory requirements and the Council's own regulations.

J2 Section 151 Officer

J2.1 The Section 151 Officer is responsible for the collection and recovery of Council Tax and Non-Domestic Rates. He or she should ensure that accounting procedures are in place to support the correct treatment and presentation of transactions in the Council's accounts.

J3 Head of Publica Group Manager with Responsibility for Revenues and Benefits

J3.1 The Head of Revenues and Benefits is responsible for the day to day management of the Council Tax and Non-Domestic Rates systems. He or she should ensure that:-

- All transactions, records and accounts are calculated accurately, completely and promptly. They should be supported by evidence and handled only by authorised staff.
- Adequate separation of duties is in place to enable the work of one Officer to be subject to check by another.
- Accounting procedures reflect the correct treatment and presentation of transactions in the Council's accounts.

K: LOCAL COUNCIL COUNCIL TAX BENEFIT SUPPORT and HOUSING BENEFIT

K1 Introduction

K1.1 The council Council is responsible for paying Local Council Council Tax Benefit Support and Housing Benefit to entitled claimants. It is also responsible for guarding against fraud and investigating where it is suspected. The council Council receives subsidy from the Government to pay for most of the Housing Benefits. It has to demonstrate sound administration and accurate payment to prove its entitlement to subsidy.

K1.2 All benefit transactions must be legitimate, appropriate and in accordance with relevant verification framework regulations.

K2 Section 151 Officer

K2.1 The Section 151 Officer is responsible for the payment of Local Council Council Tax Benefit Support and Housing Benefit. He or she should ensure that accounting procedures are in place to support the correct treatment and presentation of transactions in the Council Council's accounts and subsidy claims.

K3 Head of Publica Group Manager with Responsibility for Revenues and Benefits

K3.1 The Head of Publica Group Manager with responsibility for Revenues and Benefits is responsible for the day to day management of the Council Council Tax Benefit and Housing Benefit systems. He or she should ensure that:-

- All transactions, records and accounts are calculated accurately, completely and promptly. They should be supported by evidence and handled only by authorised staff.
- Adequate separation of duties is in place to enable the work of one Officer to be subject to check by another.
- Overpayments are dealt with in accordance with the Council Council's policy and recovery is efficient and effective.
- All fraud prevention and detection is in accordance with statute, professional guidance and the council Council's financial rules and other policies.

L: EXTERNAL ARRANGEMENTS

L1 PARTNERSHIPS

L1.1 Introduction

L1.1.1 The [Council](#) provides a distinctive leadership role for the community and brings together the contributions of a variety of stakeholders. It must also act to achieve the promotion or improvement of the economic, social and environmental well-being of its area.

L1.1.2 Partnerships play a key role in delivering community strategies and delivering the shared vision of services, based on user needs.

L1.1.3 A partner is defined as being either an organisation (public or private) undertaking, part funding or participating in a project or a body whose nature or status gives it a right or obligation to support the project.

L1.1.4 This section of the Financial Rules sets out the financial implications of working in partnership with external organisations.

L1.2 Cabinet

L1.2.1 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.

L1.2.2 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 [Council's](#) Constitution. Where functions are delegated, the Cabinet remains accountable for them to full [Council](#).

L1.2.3 The Chief Executive or delegated Officer shall represent the [Council](#) on partnership and external bodies, in accordance with the Scheme of Delegation.

L1.3 Section 151 Officer

L1.3.1 The Section 151 Officer is responsible for:-

- Ensuring that the accounting arrangements to be adopted relating to partnerships and joint arrangements are satisfactory.

- Promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the ~~eo~~ouncil#Council.
- Considering the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.
- Ensuring that the risks have been fully appraised before agreements are entered into with external bodies. He or she should advise on effective controls to ensure that resources are used efficiently and effectively.
- Ensuring that all funding notified by external bodies is received and properly recorded in the ~~eo~~ouncil#Council's accounts.

L1.4 ~~Directors and Heads of Service~~Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers

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L1.4.1 The Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers and Heads of Service are responsible for:-

- Ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- Carrying our risk management appraisals, prior to entering into an arrangement with an external body, in accordance with procedures specified by the Section 151 Officer.
- Ensuring that partnership agreements do not impact adversely on the services provided by the ~~eo~~ouncil#Council.
- Ensuring that partnership agreements and arrangements are properly documented and information provided to the Section 151 Officer to enable a note to be entered into the ~~eo~~ouncil#Council's Statement of Accounts concerning material items.
- Maintaining a register of all contracts entered into with external bodies, in accordance with procedures specified by the Section 151 Officer.

L2 EXTERNAL FUNDING

L2.1 Introduction

L2.1.1 External funding can be an important source of income to the ~~eo~~ouncil#Council, but funding conditions need to be carefully considered to

ensure that they are compatible with the aims and objectives of the [Council](#).

L2.1.2 The [Council](#) shall seek to maximise its resources by attracting external funding where appropriate. However, in some instances, available funding may be linked to tight specifications and may not be sufficiently flexible to link to the [Council](#)'s strategies.

L2.2 Section 151 Officer

L2.2.1 The Section 151 Officer is responsible for:-

- Ensuring that any match funding requirements are considered prior to entering into an external agreement and that adequate future revenue budgets are in place to meet these requirements.
- Ensuring that all funding notified by external bodies is received and properly recorded in the [Council](#)'s accounts.
- Ensuring that all audit requirements are met.

L2.3 Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers Directors and Heads of Service

L2.3.1 The Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers Directors and Heads of Service are responsible for ensuring that:-

- Funds are acquired only to meet the priorities approved in the policy framework by the [Council](#).
- Any match funding requirements are considered prior to entering into an external agreement and consulting with the Section 151 Officer to ensure that adequate future revenue budgets are in place to meet these requirements.
- Key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Accountable body are clearly understood.
- All claims for funds are made by the due date and income received in accordance with the agreement.

- The project progresses in accordance with the agreed project outline and that all expenditure is properly incurred and recorded in the [Council](#)'s accounts.

L3 WORK FOR THIRD PARTIES

L3.1 Introduction

L3.1.1 Current legislation enables the [Council](#) to provide a range of services to other bodies. Such work may enable a Service area to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is within current legislation.

L3.1.2 Contracts for the work should be drawn up using guidance provided by the Monitoring Officer and the Section 151 Officer to the [Council](#). The proposals should be costed properly in accordance with guidance provided by the Section 151 Officer.

L3.1.3 Guidance with regard to the financial aspects of third party contracts and the maintenance of the contracts register should be followed.

L3.2 Cabinet

L3.2.1 The Cabinet is responsible for approving contractual arrangements for any work carried out by the [Council](#) for third parties or external bodies in addition to the normal business. This responsibility can be delegated to the Senior Leadership Team (Directors) of the [Council](#).

L3.3 Section 151 Officer

L3.3.1 The Section 151 Officer is responsible for issuing guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

L3.4 Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers Directors and Heads of Service

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L3.4.1 The Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers Directors and Heads of Service are responsible for ensuring that:-

- Approval is—_obtained before any negotiations for the work are concluded.
- Contracts operate to the benefit of the Council and do not impact adversely upon the services provided for the Council.
- No contract is subsidised by the Council.
- The Service area has the appropriate expertise to deliver the contract.
- Appropriate insurance arrangements are put in place.
- Wherever possible, payment is received in advance of the delivery of the service to the third party.
- The Council is not put at risk from any bad debts.
- All contracts are properly documented and appropriate information given to the Section 151 Officer to enable a note to be entered into the Statement of Accounts.

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|  <p>COTSWOLD DISTRICT COUNCIL</p> | <p>COTSWOLD DISTRICT COUNCIL</p> |
| <p>Name and date of Committee</p> | <p>COUNCIL – 14 JULY 2021</p> |
| <p>Report Number</p> | <p>AGENDA ITEM 13</p> |
| <p>Subject</p> | <p>PROPOSAL FOR LOAN FINANCE TO COTTSWAY HOUSING ASSOCIATION</p> |
| <p>Wards affected</p> | <p>Initially Moreton West and Moreton East but there is the potential for impact across the District as future housing schemes are developed.</p> |
| <p>Accountable member</p> | <p>Cllr. Mike Every – Deputy Leader and Cabinet Member for Finance Email: Mike.Every@cotswold.gov.uk</p> |
| <p>Accountable officer</p> | <p>Jenny Poole (Deputy Chief Executive) Tel: 01285 623313 Email: jenny.poole@cotswold.gov.uk</p> |
| <p>Summary/Purpose</p> | <p>To consider a proposal to provide loan financing to Cottsway Housing Association Ltd through its subsidiary company, Cottsway 2. The lower cost of finance would enable the provision of green energy generation via solar PV installation on 15 houses at Davies Road, Moreton-in-Marsh.</p> |
| <p>Annexes</p> | <p>Exempt Annex A – Business Case Presented to the Capital Programme Investment Board Exempt Annex B – Draft Facility Agreement Exempt Annex C - Outcome of Due Diligence Review</p> |
| <p>Recommendation/s</p> | <p><i>That:</i></p> <ul style="list-style-type: none"> <i>(a) Council approves the loan arrangement; and</i> <i>(b) The loan is financed through Prudential Borrowing in line with the Council's Capital and Treasury Management Strategies;</i> <i>(c) That, subject to the approval by Council of recommendation (a), the negotiation of the detailed terms for the transaction be delegated to the Deputy Chief Executive, following consultation with the, Head of Legal Services, Monitoring Officer and the Deputy Leader and Cabinet Member for Finance;</i> |

| | |
|-----------------------------|--|
| | <i>(d) The Audit Committee review performance as part of regular Treasury Management updates.</i> |
| Corporate priorities | <ul style="list-style-type: none"> • Responding to the challenges presented by the climate crisis • Providing good quality social rented homes |
| Key Decision | Yes |
| Exempt | <p>The annexes to the report are exempt under Schedule 12A, paragraph 3 of the Local Government Act 1972:</p> <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> |
| Consultees/ Consultation | The Council's Capital Programme Invest Board have considered this proposal and views are reported at 3.1. |

I. BACKGROUND

- 1.1. Council approved a Capital Investment and Recovery Strategy in September 2020. The Strategy starts from the premise that there is a significant funding gap that needs to be closed. The Medium Term Financial Strategy identifies £4.830 million of savings to be delivered through the Capital Investment Recovery Strategy over the period from 2020/21 to 2023/24. Capital investment is a major tool available to the Council to achieve this as long as it covers the revenue implications of that investment and makes an appropriate return. The target income required from capital investment is £1.356 million by 2023/24.
- 1.2. The Priority Delivery Themes identified in the Strategy include:
- Affordable Social Housing;
 - Green Energy and Carbon Reduction;
 - Delivering Infrastructure for Jobs and Economic Growth;
 - Reinvigorating Commercial Centres to ensure our economic vibrancy;
 - Maximising existing and new income streams from service delivery; and
 - Developing a commercial culture to our decision making whilst retaining a public service ethos.
- 1.3. This report presents the first investment proposal under the Capital Investment and Recovery Strategy.
- 1.4. The Council has established a Capital Programme Investment Board to provide cross-party Member engagement as proposals for investment are developed. The Business Case considered by the Board is attached at **Annex A**. The views of the Board are included within this report for consideration by Council.

2. SUMMARY OF PROPOSALS

- 2.1. Cottsway Housing is a registered provider of social housing and is working in partnership with the Council and Homes England to produce a social rented, reduced carbon scheme of 15 homes at Davies Road, Moreton in the Marsh. This scheme is supported by both Homes England and Cotswold District Council grant funding.
- 2.2. The current planned scheme includes air source electric heating and improved insulation. The original Cottsway proposal included the provision of solar PV to further drive down carbon emissions. However, this was not affordable and has not therefore been included in the scheme.
- 2.3. The total scheme costs are £3,707,618 supported by grants from Homes England of £1,275,000 and £580,500 from this Council.
- 2.4. Currently, the scheme will be developed by Cottsway Housing using its normal private finance arrangements. However, if the Council were to use PWLB funds and on-lend to Cottsway 2 Ltd, also a registered provider in the Cottsway Housing Group, then there is the potential to include the cost of the solar PV within the scheme without additional grant support.

- 2.5. The scheme could absorb up to a maximum interest cost 3.25% paying back interest and capital each year.
- 2.6. The scheme costs with solar PV is £3,753,000 and Cottsway are proposing a revolving credit facility of up to £3,753,000. As grant funding from Homes England and the Council are paid to Cottsway, the Housing Association will be able to part-repay the loan financing to the Council. Of the £3,753,000 loan, the lending for 50 years will be £1,897,500.
- 2.7. The 50 year loan element of £1,897,500 will be secured upon the housing assets with a first charge on the properties.

3. VIEWS OF THE CAPITAL PROGRAMME INVESTMENT BOARD

- 3.1. The Capital Programme Investment Board considered the proposed loan to Cottsway Housing Association on 16 June 2021. The Board were broadly supportive of the arrangement. However, Cllr Theodoulou requested that, as part of the negotiations with Cottsway, that the security for the loan was improved. This will be taken forward by the Deputy Chief Executive using the delegation proposed in this report.

4. FINANCIAL IMPLICATIONS

- 4.1. The difference between interest income from Cottsway and the rate of interest on temporary borrowing which the Council can access is expected to provide a net return to the Council of around £35,700 per annum while development takes place.
- 4.2. The difference between interest income from Cottsway and the rate of interest on long-term borrowing which the Council can access is expected to provide a net return to the Council of around £10,700 per annum for 50 years.
- 4.3. The risk of Cottsway 2 not being able to fund the loan repayments during development of the site is mitigated by the fact that 49.5% of the funding is being provided through Homes England and grant funding from this Council. As Cottsway receives the grant income it will be able to repay borrowing from the Council.
- 4.4. Registered Providers are required to comply with Regulatory Standards and Guidance and a Code of Practice set by The Regulator of Social Housing. The Regulator requires both Cottsway and Cottsway 2 to submit information including: annual accounts, a financial forecast return and other statistical data. The role of the Regulator is to:
 - protect social housing assets
 - ensure providers are financially viable and properly governed
 - maintain confidence of lenders to invest into the sector
 - encourage and support supply of social housing
 - ensure tenants are protected and have opportunities to be involved in the management of their housing
 - ensure value for money in service delivery

- 4.5. The fact that the Council is lending to Cottsway 2 Ltd, a subsidiary of Cottsway Ltd and that both entities are Registered Providers provides additional assurance to the Council that lending to Cottsway 2 does not unduly expose the Council to significant risk
- 4.6. The risk of Cottsway 2 not being able to fund the loan repayments once the development is complete is mitigated by a legal charge on the housing assets on the site. Should Cottsway 2 fail, the assets would transfer to the Council along with the rental income and operational liabilities.
- 4.7. The Council has commissioned its treasury advisors, Arlingclose Ltd, to provide a due diligence report on Cottsway Ltd and Cottsway 2 Ltd. The outcome of the due diligence work is included at Annex C. There were no significant issues raised in the due diligence work. Members can take some assurance from ratings issued by the Moodys (Credit Agency) and Regulator ratings. In February 2021, the Credit Agency Moody's rated Cottsway Housing Association as A3 with a stable outlook. The Regulator has rated the Cottsway Group (including Cottsway 2) as G1 and VI, the best ratings available from the Regulator. If Members wish to discuss the findings in detail the meeting will need to move in to private session.
- 4.8. Cabinet considered this proposal on 5th July 2021 and are recommending the loan to Council for approval.

5. LEGAL IMPLICATIONS

- 5.1. A copy of the draft Facility Agreement between Cottsway 2 Ltd and the Council is attached at **Annex B** for information.
- 5.2. Other than this Loan Agreement, no further legal implications arise directly from this Report.

6. RISK ASSESSMENT

- 6.1. There are risks associated with the development of the site which will be managed by Cottsway, which is an experienced social housing developer.
- 6.2. There is a risk of interest rates increasing before the Council secures its long-term fixed rate borrowing. This will be mitigated by ensuring that arrangements are in place for the Council to access PVLB borrowing, careful cash-flow management and working with Arlingclose to understand the impact of economic conditions on interest rates and the most cost effective borrowing policy for the Council.

7. EQUALITIES IMPACT

- 7.1. There is no direct equalities impact as a result of this report. However, the Council report on 17 March 2021 considered an Equality Impact Assessment relating to the provision of social housing in the District which is also relevant to this report. The Equalities Impact Assessment highlights that the delivery of housing is aimed at meeting the identified needs of local people, based principally on the Local Housing Needs Assessment. Housing provision will be tailored to meet these specific needs and have regard to demographics such as age, income and disability. Investment in solar PV energy generation on the homes will reduce the costs of electricity for residents and supports the Council's ambition of truly affordable housing.

8. CLIMATE CHANGE AND ECOLOGICAL EMERGENCY IMPLICATIONS

- 8.1. The provision of solar PV on the homes is estimated to reduce CO2 emissions from the properties a further 16.5%. The current scheme is estimated to reduce emissions by 39%, with solar PV that increases to 55.5%.

9. ALTERNATIVE OPTIONS

- 9.1. To not provide the loan financing to Cottsway 2 Ltd. This will mean that Solar PV is not financially viable and will not be provided on the development.
- 9.2. To require a higher rate of interest on the loan. However. This would reduce the financial viability of the development and would impact upon the provision of Solar PV on the development.

10. BACKGROUND PAPERS

- 10.1. None.

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