



**COTSWOLD**  
District Council

# **COTSWOLD DISTRICT COUNCIL**

## **CONSTITUTION**

Version: 2.9

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## Revision history

<b>Revision Date</b>	<b>Version</b>	<b>Description</b>
5 October 2022	2.0	Full document received by Council and various updates approved.
16 November 2023	2.1	Executive Scrutiny Protocol approved by Council for inclusion.
18 January 2023	2.2	Council approved amendments to Part B and Part D1 and approved the Protocol for Electronic Voting and the Cabinet Member Decision Making Protocol for inclusion.
15 March 2023	2.3	Council approved a new Member Code of Conduct, the inclusion of the Monitoring Officer Protocol and an update to Part D1.
24 May 2023	2.4	Council approved a new Member Allowances Scheme.
20 September 2023	2.5	Council approved changes to call in rules and Audit and Governance Committee
12 February 2024	2.6	Budget Protocol updated by the Deputy Chief Executive under authority delegated by Council on 22 November 2022.
1 April 2024	2.7	Updates to the Non-Executive Scheme of Delegation, Planning Protocol, and Members Allowances Scheme
11 October 2024	2.8	Further updates to Part C4 – Non Executive Scheme of Delegation (relating to Planning) and E5 – Planning Protocol agreed by Full Council on 25 September 2024.
4 November 2024	2.9	Updates to the Constitution following the 'Phase 1' transition of services from Publica Group Ltd back to the Council. This has been done using delegated authority to the Director of Governance and Development (Monitoring Officer) authorised by Full Council on 31 July 2024.

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## Part A – Summary and Explanation

### Glossary of Terms<sup>1</sup>

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 Members	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.

<sup>1</sup> Glossary of Terms approved by Full Council on 14 July 2021

	<p>2. Information which is likely to reveal the identity of an individual.</p> <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>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.</p> <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person or task</p> <p>(b) to make an order or direction under any enactment.</p> <p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>
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	<p>A decision which is significant. This Council has previously determined the definition of a “key decision”, which is:</p> <p>(i) any Cabinet decision which requires a budget expenditure, or generates savings, of £150,000 or more;</p> <p>(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.</p>
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 they are unable to act owing to absence or illness, the person nominated as their 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 Council's Constitution

Section 37 of the Local Government Act 2000 requires Cotswold District Council to maintain a Constitution. This summary is intended to explain the purpose of the Constitution and help the reader find their way around it.

This Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people.

Some of these processes are required by the law, whilst others are a matter for the Council to choose.

The Constitution is divided into 16 Articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in the [procedure rules \(Part D\)](#) and [codes and protocols \(Part E\)](#).

## What is in the Constitution

Article 1 of the Constitution commits the Council to provide clear leadership to the community and to operate efficient, transparent and accountable decision making processes. Articles 2-15 of the Constitution explains the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
- The Cabinet (Article 6)
- The Overview and Scrutiny Committee (Article 7)
- The Audit and Governance Committee (Article 8)
- The Planning and Licensing Committee (Article 9)
- Area Committees and Forums (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

## How the Council Operates

The Council comprises 34 Councillors, elected every four years. The overriding duty and accountability of Councillors is to the whole community in the Cotswold District, but they

have a special responsibility to their constituents in their Ward, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer trains and advises them on the Code of Conduct and, where there may be a breach, will investigate and take the necessary action. The Monitoring Officer is supported by an Independent Person and, if necessary, the Audit and Governance Committee on Code/standards matters.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's overall policies and set the budget each year; and settle the Council's main plans, like the Corporate Strategy and Plan.

## **How Decisions are made**

The majority of decisions are made by the Cabinet (sometimes known as the Executive). The Cabinet is made up of the Leader of the Council and up to nine other individual Members of the Cabinet known, with the Leader, as Portfolio Holders (or Cabinet Members). Portfolio Holders also have individual decision-making powers, within their respective portfolio areas.

A Cabinet's role is principally to formulate detailed policies and proposals for the delivery of services within the policy and budgetary framework that is set by the Council.

When key decisions are to be discussed or made, these are published in the Cabinet's Forward Plan, insofar as they can be anticipated. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

The various Committees also have decision-making powers, set by the Council; as do Officers, operating within approved Scheme of Delegation.

Meetings of the Council, Cabinet and Committees are, by law, publicised well in advance and are open to the public except where personal or confidential matters are being discussed.

## **The Overview and Scrutiny Committee**

In view of the importance of a Cabinet's role and its very extensive powers, its work is required by law to be subject to monitoring by at least one overview and scrutiny committee.

The Council currently has one Overview and Scrutiny Committee which, in addition to this Cabinet monitoring role, can support the work of the Cabinet, the Planning and Licensing Committee and the Council as a whole. It allows citizens to have a greater say in Council matters by holding investigations/inquiries into matters of local concern. These can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the Cabinet and the Portfolio Holders. It can “call-in” a decision that has been made but not yet implemented. This enables the Committee to consider whether the decision made is appropriate given all relevant information (but not because it would have made a different decision). It may recommend that the Cabinet, a Portfolio Holder or the Council should reconsider the decision. (It should be noted that Cabinet does not have to change its decision following the recommendation of the Overview and Scrutiny Committee).

The Committee can also assist the Cabinet, the Portfolio Holders and the Council in the development of policy of forthcoming decisions.

## **The Audit and Governance Committee**

The Audit and Governance Committee is another ‘scrutiny-style’ committee, which is responsible for ensuring that the Council complies with its audit duties and responsibilities, in accordance with the Accounts and Audit Regulations. This role covers internal and external audit, risk management, matters relating to the Council’s Statement of Accounts, and corporate governance.

In addition the Audit and Governance Committee is responsible for promoting and maintaining high standards of conduct and for determination of complaints regarding conduct of Members.

## **Performance and Appointments Committee (Statutory Officers)**

The Performance and Appointments Committee (Statutory Officers) (comprising of 7 Councillors, appointed at the Annual Council Meeting) is responsible for:

- the salaries and contractual terms and conditions of the Chief Executive/Head of Paid Service and the Council’s other statutory officers (Chief Finance Officer and Monitoring Officer);
- retirement/redundancy issues relating to the Chief Executive/Head of Paid Service; and
- any grievance and/or disciplinary matters in respect of the Chief Executive/Head of Paid Service.

A sub-group of the Committee will also conduct the appraisal of the Chief Executive/Head of Paid Service.

## **Area Committees or Forums**

The Council does not currently have Area Committees or Forums but may choose to create these in the future, following public consultation on their number, composition, function and delegated financial authority.

## **The Council’s Staff**

The Council employs staff to give advice, implement decisions and manage the day-to-day delivery of its services. Some of these staff are employed directly by the Council and some through the Publica Group (Support) Ltd (‘Publica’) to deliver its services. There are also a number of partner organisations who deliver Council services.

There are three officers which statute states must be appointed to the staff of the Council, namely the Head of Paid Service, the Chief Finance Officer (section 151 Officer) and the Monitoring Officer. These officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely; and also have special protection of employment rights.

A [Member/Officer Protocol, set out in Part E](#) of this Constitution, governs the relationships between Members of the Council and Officers, rooted in mutual respect and trust.

## **Publica Group (Support) Limited**

The Council has exercised its powers under section 1 of the Localism Act 2011 to establish Publica Group (Support) Limited (“Publica”)

**Ownership & purpose** - Publica is a company limited by guarantee (company number 10580349) which is jointly owned by West Oxfordshire District Council, Cotswold District Council, Forest of Dean District Council and Cheltenham Borough Council (“Members”). Publica has been established as a vehicle through which some services are delivered to the Members which jointly own it.

**Objects** - Publica’s objects are recorded in its Articles of Association, and are to provide services to public bodies and other customers (whether public bodies or not) as the Members consider appropriate (but subject to the proviso that the provision of services to non-public bodies shall always remain incidental to the primary aim of providing services to public bodies).

**Control** - The four Councils exercise control over Publica by both their membership of it and through the directors they appoint to manage it.

**Members’ Agreement** - The Members have entered into a Members’ Agreement which sets out more detailed operational arrangements and the matters which are reserved for determination by each Member. In general, these reserved matters are key structural and high-level operational matters rather than the “day-to-day” business of the company, which is the responsibility of Publica’s directors.

**Directors** - Publica’s directors are appointed by the Members. Publica’s directors hold a fiduciary duty to Publica, but at the same time are also accountable to the Member(s) which appointed them, and as such owe duties to both the Council and Publica.

**Independent legal entity** - It is important to recognise that Publica is an independent legal entity which is entirely separate from the Council. Publica has its own identity and responsibilities, and so cannot be treated as simply another internal department of the Council. As a Council owned company, Publica is required to comply with Company law, its Articles of Association and its Members Agreement. Publica is not governed by the Council’s Constitution.

**Service Contract** - The Council and Publica have entered into a bi-lateral Service Contract which (amongst other things) details the services the Council requires from Publica and terms of payment

**Teckal** - Publica is a “Teckal” company within the meaning of Regulation 12 of the Public Contracts Regulations 2015. As such it is required to carry out more than 80% of its

activities for its Members. It also operates with Mutual Trading Status. The practical effect of the “Teckal” exemption is that the Council may award contracts to Publica without the need to comply with the full requirements of the Public Contract Regulations.

Officers and Staff - Notwithstanding that the Council may employ such officers as it considers necessary to undertake the day-to-day operations arising out of the functions for which it is responsible, the Council acknowledges that Publica and other partner bodies may be responsible for the employment of officers.

Statutory Officers - There are three officers which by law must be appointed to the staff of the Council. They are:

- The Head of Paid Service;
- The Chief Finance Officer (Section 151 Officer); and
- The Monitoring Officer.

These officers have special protection of employment rights.

Council Functions - Council services are divided into delegable and non-delegable functions. Delegable functions may be carried out by Publica on the Council’s behalf. Non-delegable functions may only be carried out by the Council. Whilst Publica may assist the Council with service and policy development the Council retains responsibility for non-delegable statutory duties as well as its political processes for determining and monitoring Council policies and services.

Council Decisions - Council decisions continue to be taken by elected members, either through formal governance processes or as delegated decisions by Council officers. There is also a group of employees with joint employment contracts who are able to take some of the delegated decisions as outlined in the Council’s Constitution. Publica itself does not take any decisions for the Council.

Joint Employment Contracts - The contracts of employment of employees with joint employment contracts make it clear that in relation to the specific statutory functions listed they are solely employed by the Council. In addition, the contract of employment also makes it clear that when exercising statutory functions on behalf of the Council the employee is directly accountable to the Council’s Chief Executive or another employee with a joint employment contract who is directly accountable to the Chief Executive.

Conflicts of interest - As a result of the fact that the Council and Publica are separate legal entities, when they contact, or otherwise interact, with each other, care must be taken to ensure that conflicts of interest are avoided whenever possible. When Council officers are asked to provide advice in a situation where the interests of the Council and Publica are not entirely aligned, individual officers should be assigned to advise or represent one side or the other, but should not act for both.

## **Citizens’ Rights**

Citizens have a number of rights in connection with their dealings with the Council. These are set out in more detail in [Article 3](#). Some of these are legal rights, while others depend

on the Council's own processes. The local Citizens Advice Bureau can advise on individuals' legal rights. Citizens have the right to:

- vote at local elections, if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution (accessible on the Council's website [www.cotswold.gov.uk](http://www.cotswold.gov.uk)). A "hard copy" can be supplied but there will be a charge for this
- attend meetings of the Council, the Cabinet and Committees except where, for example, personal or confidential matters are being discussed;
- inspect agendas and reports except where, for example, a report has been written about a confidential matter;
- petition to request a referendum on a Mayoral form of executive;
- participate in the Council's question time and ask questions at Cabinet and Committee Meetings - See [Council Procedure Rules](#)
- petition the Council on a particular matter - see [Council Procedure Rules](#);
- initiate a 'Councillor Call for Action' in respect of a matter relating to an individual Ward where you feel that the Council should take action;
- find out from the Cabinet Forward Plan (published monthly), what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and when;
- complain to the Council under its internal complaints process;
- complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly (although they should only do this after using and exhausting the Council's own complaints process);
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct for Members; and
- inspect the Council's accounts and make their views known to the external auditor.

A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the [Access to Information Rules contained within this Constitution \(Part D\)](#).

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## Part B – Articles of the Constitution

### Article I – The Constitution

#### 1.1 Duties and powers of the Council

Cotswold District Council (“the Council”) will exercise all its duties and powers in accordance with the law and this Constitution.

#### 1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the Cotswold District Council.

#### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help District Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that in the Overview and Scrutiny Committee no one will review or scrutinise a decision in which they were directly involved;
- provide a means of improving the delivery of services to the community; and
- ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council
- ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions

#### 1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated in Article 1.3.

The Council will monitor and evaluate the operation of the Constitution as set out in [Article 15 \(Review and Revision of the Constitution\)](#).

## Article 2 – Members of the Council

### 2.1 Composition and Eligibility

**Composition.** The Council comprises 34 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Committee and approved by the Secretary of State for Communities and Local Government.

**Eligibility.** Only registered voters of the District or those living or working or holding property there will be eligible to hold the office of Councillor. Detailed eligibility qualifications are set out in Section 79 of the Local Government Act 1972

### 2.2 Election and Term of Office of Councillors

**Election and Term of Office.** The regular election of Councillors will be held on the first Thursday in May every four years. (The next District Council election will take place in 2023). If a Councillor resigns, dies or becomes ineligible to serve as a Councillor between regular elections, an election will be held to fill the “casual vacancy” unless the vacancy arises within six months before a regular election. The terms of office of Councillors will start on the fourth day after being elected and will finish on the third day after the date of the next regular election.

The Secretary of State may in a year when a General Election is held, make an Order to change the ordinary day of election of Councillors so as to be the same day as the Poll in that General Election.

### 2.3 Roles and Functions of all Councillors

#### Role and Function

The roles and functions of all Councillors are set out in [Part C7](#) of this Constitution.

#### Rights and Duties

- i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law. The Head of Paid Service may refuse inspection of documents where the documents are, or in the event of legal proceedings would be, protected by privilege arising out of a Solicitor and Client relationship;
- ii) Councillors will not make public information which is confidential or exempt without the express consent of the Council or Cabinet as the case may be or divulge information given to them in confidence to anyone other than a Councillor or Officer entitled to know it.
- iii) For these purposes, “confidential” and “exempt” information are defined in the [Access to Information Procedure Rules in Part D](#) of this Constitution.
- iv) Councillors have a right to support from Officers to help them discharge their duties to the Council and their constituents.

## 2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the following protocols set out in Part E of this Constitution:-

- i) [Protocol on Member/Officer Relations](#)
- ii) [Planning Protocol - Guidelines for Councillors and Officers](#)
- iii) [Probity in Licensing - Licensing Protocol](#)

The Council is required to maintain and update a Register of Interests of its Members and co-opted Members. Details of the Register are set out in the Members' Code of Conduct. The Register is available for public inspection at the Council's offices and on the [Council's website](#).

## 2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme, a copy of which is contained at [Appendix 3](#) to this Constitution. Details of allowances paid to/claimed by Members will be published on the [Council's website](#) on an annual basis, as soon as possible after the close of each financial year.

## Article 3 – Citizens and the Council

### 3.1 Citizens' Rights

Citizens have the following rights:-

- (a) **Voting and Petitions** – Citizens on the electoral roll for the district have the right to vote at relevant elections.
- (b) **Petitions** – Citizens on the electoral roll for the district have the right to:
  - (i) sign a petition to request a referendum to replace the Leader and Cabinet of the Council with an elected Mayor and Cabinet – no more than one such referendum can, however, be held in any ten year period from any previous such referendum. Information on this right can be obtained from the Chief Executive;
  - (ii) sign a petition to request that the Council take action on a particular matter.
- (c) **Councillor Call for Action:** Citizens' have the right to initiate a 'Councillor Call for Action' in respect of a matter relating to an individual Ward where they feel that the Council should take action (see Part D6).
- (d) **Information:** Citizens' have the right to
  - (i) attend meetings of the Council, the Cabinet and Committees except where confidential or exempt information is likely to be disclosed, in which case the meeting or part of it could be held in private;
  - (ii) find out from the Forward Plan what, and when Key Decisions will be taken by the Cabinet and Portfolio Holders;
  - (iii) inspect agendas, reports and background papers, minutes and any records of decisions made by the Council, the Cabinet, Committees and Portfolio Holders, except where these contain confidential or exempt information;
  - (iv) inspect the Council's accounts and make their views known to the external auditor (the name and address of the external auditor can be obtained from the Chief Finance Officer);
  - (v) contact their local Councillor about any matter of concern to them; and
  - (vi) obtain a copy of this Constitution (also available on the Council's website)

(Citizens' rights to information are explained in more detail in the [Access to Information Rules](#) in Part D of this Constitution)

- (e) **Participation** – Citizens have the right to submit and ask questions at ordinary Council, Cabinet and Committee meetings – see [Council Procedure Rules](#) take part in deputations and present petitions/calls for action to the Council and contribute to investigations by the Overview and Scrutiny Committee
- (f) **Complaints** – Citizens have the right to complain to:
  - (i) the Council itself under its [complaints procedure](#);
  - (ii) the Local Government and Social Care Ombudsman, after using the Council's own complaints procedure, if they think that the Council has not followed its procedures properly;
  - (iii) the Monitoring Officer for the District about the breach of the Councillors' Code of Conduct if they have evidence which they think

shows that a Councillor has not followed the [Councillors' Code of Conduct](#) (Part E of this Constitution). Contact details for the Monitoring Officer can be found on the [Councils website](#)

### **3.2 Citizens' Responsibilities**

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

## Article 4 – The Council

The principal function of full Council is to approve, adopt and change the Council's Budgetary and Policy Framework. The documents that make up the Policy Framework are prescribed by law under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) as amended, but may in addition include the plans and strategies that the Council decide should be considered by full Council.

### 4.1 Meanings

- (a) **Policy Framework** – The policy framework currently comprises the following plans and strategies:-
- (i) Corporate Strategy/Corporate Plan;
  - (ii) Community Strategy;
  - (iii) Crime and Disorder Reduction Strategy;
  - (iv) Plans and strategies which together comprise the Development Plan (the Cotswold District Local Plan and the Council's input into any such County-wide document);
  - (v) Housing Strategy;
  - (vi) Licensing Policy Statements (Licensing Act 2003 and Gambling Act 2005)

Note: The names and descriptions of the above policies/strategies etc. may be subject to change from time to time.

- (b) **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, decisions relating to the control of the Council's borrowing requirements, the Capital Strategy, the control of capital expenditure and the setting of virement limits.

Note: The Council will receive recommendations from the Cabinet in relation to the Policy Framework and Budget matters identified above.

### 4.2 Functions of the Council

The Council will have sole responsibility for the following functions:

- (a) adopting and changing the Constitution (other than any Protocols which fall within the Terms of Reference of the Cabinet or a Committee);
- (b) approving and adopting the Policy Framework and the Budget, including the Medium Term Financial Plan/Strategy;
- (c) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (unless the function has been delegated by the Council);
- (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) appointing the Leader of the Council;
- (f) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (g) dealing with matters of governance;

- (h) delegating functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (i) changing the name of the District;
- (j) appointing (and dismissing) the Chief Executive
- (k) approving the authority's Pay Policy Statement;
- (l) appointing any Officer where pay (incorporating all payments and benefits in kind) exceeds £100,000;
- (m) arranging any severance payments where the compensation sum exceeds £100,000;
- (n) determining any delegation to Officers which does not fall within the purview of the Cabinet;
- (o) approving the acquisition/disposal of land and property over £500,000;
- (p) approving the annual Treasury Management Investment Strategy;
- (q) approving the Prudential Indicators including the Council's Minimum Revenue Provision Policy;
- (r) approving and adopting a scheme of allowances for Members;
- (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 set out in [Part C of this Constitution](#) which the Council has decided should be undertaken by itself rather than the Cabinet, an Officer or Committee; and
- (u) all other matters which by law must be reserved to the Council.

### 4.3 Council Meetings

There are three types of Council meetings:

- (a) the Annual Meeting;
- (b) Ordinary Meetings (including the Budget Meeting);
- (c) Special/Extraordinary Meetings;

and they will be conducted in accordance with the [Council Procedure Rules](#) in Part D of this Constitution.

## Article 5 – Chairing the Council

### 5.1 Election/Appointment of the Chair/Vice-Chair of the Council

The Chair and Vice-Chair of the Council will be elected by the Council each year at its Annual Meeting.

### 5.2 Role and Function of the Chair

The Chair, and in their absence the Vice-Chair, will have the following roles and functions:-

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary. The Chair shall first consult the Monitoring Officer where appropriate;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that Council meetings are a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to attend such civic and ceremonial functions as the Council and/or they consider appropriate.

5.2 The Chair of the Council shall not be a Cabinet Member, or a Member of the Overview and Scrutiny Committee or the Audit and Governance Committee.

5.3 The Vice-Chair of the Council shall not be a Cabinet Member.

5.4 The Chair and Vice-Chair of the Council cannot both serve on the Planning and Licensing Committee.

5.5 The Chair of the Council, by virtue of office, is not eligible to hold office as a Chair of a Committee during their term.

5.6 No member is eligible to be a Chair or Vice-Chair of any Committee within one year of ceasing to hold office as Chair of the Council.



## **Article 6 – The Cabinet**

### **6.1 Role**

The Cabinet (as known as the Executive) 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 this Constitution. The Cabinet has a minimum of three and a maximum of ten Members.

### **6.2 Form and Composition**

The Cabinet is made up of the Leader of the Council who must be a District Councillor and up to nine other District Councillors. This Council currently has a Leader and seven Councillors in its Cabinet. The Council is responsible for appointing the Leader at its Annual Meeting of Council following a regular election or, if the Council fails to elect a Leader at that post-election annual meeting, at a subsequent meeting of the Council. The Leader of the Council is responsible for determining the number of other members of the Cabinet, which shall be between two and nine, and also appointing them and allocating portfolios for these appointees. If a vacancy occurs in the Cabinet, a replacement may be approved by the Leader.

### **6.3 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 Leader of the Council or 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 them.

**6.4** There may be no co-options, deputies (except for Deputy Leader) or substitutes for members of the Cabinet.

### **6.5 Leader of the Council**

The Leader of the Council will be a Councillor elected to that position by the Council. The term of office of the Leader will start on the day of their election as Leader and end on the day of the next post-election annual meeting unless:

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they cease to be a Councillor; or
- (d) the Council passes a simple resolution to remove them from the office at an earlier date but normally only in the event of a change of political control of the Council. If the Council passes a resolution to remove the Leader, a new Leader will be elected at the meeting at which the Leader is removed from office or at a subsequent meeting.

### **6.6 Deputy Leader**

The Leader shall appoint one of the Members of Cabinet to be their deputy, to hold office

until the end of the term of office of the Leader unless they resign as Deputy Leader or cease to be a Member of Council or is removed from office by the Leader under the following provisions;

- (a) the Leader may, if they think fit, remove the Deputy Leader from office and must appoint another member of the Cabinet in their place;
- (b) If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in their place

#### **6.7 Other Cabinet Members**

The Leader of the Council will nominate other Cabinet Members to the Council.

Cabinet Members must be Councillors.

Cabinet Members shall hold office until:

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they cease to be a Councillor; or
- (d) they are removed from office by the Leader

#### **6.8 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the [Cabinet Procedure Rules](#) set out in Part D of this Constitution.

## Article 7 – The Overview and Scrutiny Committee

- 7.1 The Overview and Scrutiny Committee supports the work of the Council as a whole. It holds the Cabinet and Portfolio Holders to account and makes recommendations on the development of policies. It also has a key role in considering other matters of local concern.
- 7.2 The guiding principle of the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions under Section 9F of the Local Government Act 2000 (as amended). This is best achieved by an inclusive process covering Members, the Council's partners, service users and officers.
- 7.3 The Overview and Scrutiny Committee will perform an over-arching scrutiny role and will also co-ordinate, plan and approve the programme of scrutiny work. It will have the right to create such task and finish groups, scrutiny panels or working parties as it thinks fit to carry out the Scrutiny programmes and delegate such functions as it thinks appropriate. Each task and finish group or working party will scrutinise the work of the Council, and/or the Cabinet, on a service-based and/or cost-cutting basis.
- 7.4 The Overview and Scrutiny Committee can also seek to scrutinise the work of external organisations and partners.

### 7.5 Overview and Scrutiny Committee – General Roles

The Overview and Scrutiny Committee shall have the functions, powers and responsibilities set out below:

- (a) co-ordinate, champion and lead on the scrutiny of Council and Cabinet decisions;
- (b) have all the functions, powers and duties conferred by Section 9F of the Local Government Act 2000 (as amended);
- (c) have all the powers and functions, powers and duties conferred by Section 19 of the Crime and Justice Act 2006 and to act as the Council's Crime and Disorder Committee;
- (d) determine the allocation of work in the event that the scope of the subject matter of scrutiny study or the investigation overlaps the role of more than one task and finish group;
- (e) review the operation of the scrutiny process and work programmes of the Audit and Governance and Scrutiny Sub-Committees and task and finish groups and inform and advise Council in relation to priorities and the allocation of resources;
- (f) oversee and review the resources, support, training and development of Audit and Governance and Scrutiny Members;
- (g) develop a positive "critical friend" approach to the role of scrutiny of the Council and community issues;
- (h) provide and co-ordinate the input to an annual report to Council on such issues or topics as the Committee sees fit;

- (i) give consideration to the management of matters called in for review in accordance with the Audit and Governance and Scrutiny Procedure Rules;
- (j) give consideration to matters referred to it through the Councillor Call for Action process;
- (k) give consideration to matters referred to it through the petitions process;
- (l) review and scrutinise the work of the Cabinet;
- (m) review and scrutinise the content of the Forward Plan;
- (n) review and scrutinise the policies and proposed policy of the Council;
- (o) consider any matters which affect the Authority, the District of Cotswold (or part of it) or its inhabitants (or some of them);
- (p) require the Council's statutory officers to attend to give advice on matters under review or discussion;
- (q) call expert witnesses from outside the Council to give advice on matters under review or discussion.

## **7.6 Policy Development and Review**

The Overview and Scrutiny Committee may consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

## **7.7 Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with Section 9F of the Local Government Act 2000 (as amended) and the [Overview and Scrutiny Procedure Rules](#) set out in Part D of this Constitution.

## **7.8 Whipping**

The Whip will not apply from any of the political groups on their respective Members of the Committee while they are taking part in Overview and Scrutiny Committee business. No political meetings of Overview and Scrutiny Committee Members shall take place.

## **Article 8 – The Audit and Governance Committee**

8.1 The Audit and Governance Committee supports the work of the Council as a whole

8.2 The Audit and Governance Committee will perform a broad base overview role across all areas of the Council, while promoting and ensuring effective internal control and individual assurance mechanisms. The Audit and Governance Committee will provide independent assurance of the adequacy of the risk management framework and the associated control environment; to assess the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment; to oversee the financial reporting process, and to ensure that Members maintain high standards of probity in their public life by carrying out investigations in respect to allegations of misconduct by a Member.

### **8.3 Audit and Governance Committee – General Role**

The Audit Committee shall have the functions. Powers and responsibilities set out below:

- (a) consider the Head of Internal Audit's annual report and a summary of the internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements, including an opinion on the overall adequacy and effectiveness of the Council's internal control environment;
- (b) consider summaries of specific internal audit reports, quarterly;
- (c) consider an annual report on the performance of the internal audit service and review the effectiveness of the service in accordance with the Accounts and Audit Regulations;
- (d) consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale;
- (e) consider the external auditor's annual letter, relevant reports, and the report of those charged with governance;
- (f) consider specific reports as agreed with the external auditor;
- (g) comment on the scope and depth of external audit work and to ensure it gives value for money;
- (h) monitor the effective development and operation of risk management and corporate governance;
- (i) consider summaries of specific risk management reports, quarterly;
- (j) monitor Council policies on whistleblowing, the counterfraud and anti-corruption policy and the Council's complaints process;
- (k) oversee the production of the authority's 'Annual Governance Statement' and recommend its adoption;
- (l) consider the Council's arrangements for corporate governance and recommend the necessary action to ensure compliance with best practice;
- (m) consider the Council's compliance with its own published standards and controls;
- (n) review and approve the annual statement of accounts - including to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;
- (o) consider the external auditor's report on issues arising from the audit of the accounts;

- (p) commission work from internal and external audit;
- (q) review any issues referred to it by the Council's statutory officers or any Council body;
- (r) to require the Head of Paid Service or other officer to attend and be questioned on audit, risk management and corporate governance matters relating to their roles and responsibilities;
- (s) to call expert witnesses from outside the Council to give advice on matters under review or discussion.
- (t) to discharge powers under section 101 of the Local Government Act 1972 acting as a Sub-Committee of the Council for Statement of Auditing Standards (610) purposes.
- (u) to approve the Internal Audit Periodic Plan, receive reports on progress and as a consequence approve any material changes to the plan.

#### **8.4 Audit and Governance Committee – Role in relation to Conduct/Standards Matters**

The Audit and Governance Committee shall have the functions, powers and responsibilities set out below, in support of the Monitoring Officer:

- (a) To formulate and keep under review a code of conduct to promote high ethical standards amongst Officers and to do anything that is calculated to promote and maintain high standards of conduct by Officers.
- (b) To promote maintain and assist the achievement of high standards of conduct by Members in accordance with the Council's Code of Conduct for Members.
  - 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 Members on the Code of Conduct for Members.
  - To give general guidance and advice to Members on Members' interests and keep under review the Register of Members' Interests maintained by the Monitoring Officer.
  - To give general guidance and advice to Members and employees on gifts and hospitality.
- (c) To appoint a Standards Hearings Sub-Committee to conduct hearings following any formal investigation into an allegation that a Member of the Council has failed or may have failed to comply with the Council's Code of Conduct for Members; and assist the Monitoring Officer to determine, in consultation with an independent person (and in the event that the allegations relate to a town/parish councillor, a town/parish council representative may attend in an advisory capacity), if this is the case and whether, in the case of a breach, any of the following sanctions should be imposed:
  - Censure;
  - Report to Council;
  - Recommend actions to the Leader of the Council;
  - Recommend actions to Group Leader;
  - Removal from Outside Bodies;
  - Withdrawal of facilities, such as Council email/website/internet access;
  - Exclusion for the Council offices or other premises with the exception of

meeting rooms as necessary for attending Council, Committees or Sub-Committees and/or nominating a single point of contact;

- Requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.

- (d) To set up when necessary an interview panel comprising representatives of each political group, and a non-aligned member (if there are any), to shortlist and interview candidates for the role of Independent Person; and to recommend successful candidates to the Council to be appointed by a majority of Councillors.

#### **8.4 Proceedings of the Audit and Governance Committee**

The Audit and Governance Committee will conduct its proceedings in accordance with Section 9F of the Local Government Act 2000 (as amended) and the Audit Procedure Rules set out in Part D of this Constitution.

#### **8.5 Whipping**

The Whip will not apply from any of the political groups on their respective Members of the Committee while they are taking part in Audit and Governance Committee business. No political meetings of Audit and Governance Committee Members shall take place.

## Article 9 – The Planning and Licensing Committee

- 9.1 There are certain local authority functions which cannot be the responsibility of Cabinet. The Council shall, therefore, appoint a quasi-judicial Planning and Licensing Committee to discharge the functions described in [Part C](#) of this Constitution.
- 9.2 The Planning and Licensing Committee shall comprise eleven Members of the Council, whose membership is to be allocated in proportion to the political composition of the Council.
- 9.3 The Planning and Licensing Committee will be responsible for:
- (a) dealing with all planning applications and related matters, unless they are delegated under the Council’s Scheme of Delegation; and
  - (b) dealing with licensing applications and related matters, unless they are delegated under the Council’s Scheme of Delegation
- 9.4 Members shall have completed training approved by the Monitoring Officer before taking part in decisions by the Planning and Licensing Committee.
- 9.5 Members appointed to the Planning and Licensing Committee shall be obliged to abide by
- (i) the [Planning Protocol - Guidance for Councillors and Officers](#) and
  - (ii) the [Probity in Licensing Protocol](#)
- both of which are set out in Part E of this Constitution.
- 9.6 Whipping**

The Whip will not apply from any of the political groups on their respective Members of the Planning and Licensing Committee while they are taking part in the Committee’s business. No political meetings of the Committee Members shall take place.



## **Article 10 – Area Committees and Forums**

### **10.1 Area Committees and Forums**

The Council may appoint Area Committees and/or Forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of continuous improvement and more efficient, transparent and accountable decision making.

The Council will carry out appropriate consultation with relevant Parish and Town Councils, the Chair's of relevant Parish Meetings, and the public before considering whether, and if so how, to establish Area Committees and/or Forums.

### **10.2 Form, Composition and Function**

These matters will be resolved, in advance, in the event that the Council decides to create Area Committees and/or Forums.

### **10.3 Conflicts of Interest – Membership of Area Committees and the Overview and Scrutiny Committee**

**Conflict of Interest:** If the Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of an Area Committee on which a Member of the Overview and Scrutiny Committee also serves, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Monitoring Officer.

**General Policy Review:** Where the Overview and Scrutiny Committee is reviewing policy generally, the Member must declare their interest before the relevant agenda item is reached, but need not withdraw.

### **10.4 Area Committees – Access to Information**

Any Area Committees created shall comply with the [Access to Information Procedure Rules](#) in Part D of this Constitution.

## **Article 11 – Joint Arrangements**

### **11.1 Arrangements to Promote Well Being**

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

- (a) entering into arrangements or agreements with any person or body;
- (b) co-operating with, or facilitating or co-ordinating the activities of, any person or body; and
- (c) exercising on behalf of another person or body any functions that are the responsibility of that person or body.

### **11.2 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise non-Cabinet functions or to advise the Council. Such arrangements may involve the appointment of joint committees whose members may include members of other Local Authorities.
- (b) The Cabinet may establish joint arrangements with other local authorities to exercise Cabinet functions. Such arrangements may involve the appointment of joint committees whose members may include elected members of these local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint committee and those Members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint non-Cabinet Members to a joint committee when the joint committee has functions for only part of the area of the district and that area is smaller than two-fifths of the district per area of population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a Ward which is wholly or partly contained within the area. The political balance requirements do not apply to such requirements.
- (e) Details of any joint arrangements, including any delegations to Joint Committees, shall be included in the Council's Scheme of Delegation in Part C of this Constitution.

### **11.3 Access to Information**

- (a) The [Access to Information Rules](#) in Part D of this Constitution shall apply to any joint committee established under these provisions.
- (b) If all Members of a joint committee are Members of the Cabinet in each of the participating authorities then its Access to Information regime shall be the same as that applied to the Cabinet in the respective authorities.
- (c) If a joint committee contains Members who are not on the Cabinet of any of the participating authorities, then the Access to Information Rules in Part V (A) of the Local Government Act 1972 shall apply.

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

- (a) The Council may delegate or accept the delegation of non-executive functions to or from another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate or accept the delegation of Cabinet functions to or from another local authority or, in certain circumstances, the executive of another local authority.
- (c) The decision as to whether to delegate or accept such delegation from another local authority, or the executive of another local authority, shall be reserved to the Council.

#### **11.4 Contracting Out**

The Council and the Cabinet may contract out some of their functions to other organisations under section 70 of the Deregulation and Contracting Out Act 1994, or under an agency agreement, provided there is no delegation of the Council's discretionary decision-making.

## Article 12 - Officers

### 12.1 Management Structure

**General:** The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions. The Council's staff structures and designated posts will be varied from time to time to meet the changing organisational needs of the Council.

**Statutory Officers:** The Council has three statutory officers - Head of Paid Service, Chief Finance Officer, and Monitoring Officer - with the strategic responsibilities and dedicated responsibilities set out below and in Articles 12.2-12.4 below.

Post	Areas of Responsibility
Head of Paid Service	<ul style="list-style-type: none"><li>• Overall responsibility as policy adviser</li><li>• Overall corporate management and operational responsibility (including overall management responsibility for all Officers)</li><li>• Provision of professional advice to all political groups and non-aligned Members in the decision-making process</li><li>• Community Engagement</li><li>• Operational and service performance</li><li>• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions</li><li>• Representing the Council on partnership and external bodies (as required by statute, the Council or the Cabinet)</li></ul>

**Structure:** The Head of Paid Service will determine and publicise a description of the overall management structure of the Council showing the deployment of officers

### 12.2 Functions of the Head of Paid Service

**Discharge of Functions by the Council.** The Head of Paid Service will report to the Council on how Council ought to be managed and organised so it operates efficiently and effectively.

**Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

### 12.3 Functions of the Chief Finance Officer

**Ensuring lawfulness and financial prudence of decision making.** After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or the Cabinet in relation to any Cabinet function, and the Council's external auditor, if they consider that any proposal, decision or course of

action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

**Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

**Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

**Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **12.4 Functions of the Monitoring Officer**

**Ensuring lawfulness and fairness of decision making.** After consulting the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will prepare a report to the Council or Cabinet if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission is likely to result in a finding by the Local Government Ombudsman of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered, and must be considered by the Council within a period of twenty-one days after preparation and distribution.

**Supporting the Audit and Governance Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee.

**Determining Code of Conduct Complaints.** The Monitoring Officer will receive and act upon complaints received against Members of the District Council and Parish Councils for alleged breaches of the Members Code of Conduct respectively and will seek the view of an Independent Person to determine if an allegation of misconduct warrants a full investigation and whose view will be sought by the Audit and Governance Committee to determine if a Member has broken the Council's Code of Conduct.

**Granting Dispensations to Members of the District Council.** The Monitoring Officer has delegated authority, in consultation with the Chair of the Audit and Governance Committee and an independent person, to determine applications for dispensations in respect of District Councillors

**Advising whether Cabinet decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

**Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity, budget and framework issues to all Councillors.

**Deputy Monitoring Officer.** A Deputy Monitoring Officer shall be designated to assist in the work of the Monitoring Officer. The Deputy Monitoring Officer shall have the same rights and duties of the Monitoring Officer in their absence, on occasions when the Monitoring Officer is unable to act, or when the matter is delegated to the Deputy by the Monitoring Officer.

**Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **12.5 Duty to provide sufficient resources to the Head of Paid Service, Chief Finance Officer and Monitoring Officer**

The Council will provide the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer with such offices, accommodation and other resources as are in the opinion of those officers sufficient to allow their duties to be performed.

#### **12.6 Conduct**

Officers will comply with the Officers' Code of Conduct and the [Protocol on Member/Officer Relations](#) set out in Part E of this Constitution.

#### **12.7 Proper Officer**

The Council's Monitoring Officer shall be the Proper Officer for the purposes of this Constitution.

## **Article 13 – Decision Making**

### **13.1 Responsibility for decision making**

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

### **13.2 Principles of decision making**

The principles of decision making are set out in [Part C](#) of this Constitution.

### **13.3 Types of decision**

**Decisions reserved to Full Council and which cannot be delegated** – decisions relating to the functions listed in Article 4.2 will be made by Full Council and cannot be delegated.

**Decisions referred to Full Council** - the Cabinet or any Committee can choose not to exercise its delegated powers in respect of any matter within its purview, and decide to refer the matter to the Council for decision.

**Key Decisions** – the definition of a key decision has been agreed as follows:-

- a) any executive decision which requires a budget expenditure, or generates savings, of £150,000 or more;
- b) 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.

### **13.4 Decision making by the Council**

Subject to Article 13.8, the Council meeting will follow the [Council Procedure Rules](#) set out in Part D of this Constitution when considering any matter.

### **13.5 Decision making by the Cabinet**

Subject to Article 6 and Article 13.8, the Cabinet will follow the [Cabinet Procedure Rules](#) set out in Part D of this Constitution when considering any matter.

### **13.6 Decision making by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the [Overview and Scrutiny Procedure Rules](#) set out in Part D of this Constitution when considering any matter.

### **13.7 Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 13.8, other Council Committees and Sub-Committees will follow the [Committee Procedure Rules](#) set out in Part D of this Constitution as apply to them.

### **13.8 Decision making by the Council bodies acting as tribunals**

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



## **Article 14 – Finance, Contracts and Legal Matters**

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Part D of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the [Contract Procedure Rules](#) set out in Part D of this Constitution.

### **14.3 Legal Proceedings**

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests and they are satisfied as to the evidence available.

### **14.4 Authentication of documents**

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

Any contract with the value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contract must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by the Head of Legal Services, the Monitoring Officer or the Chief Executive or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **14.4 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Head of Legal Services, should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services, the Monitoring Officer or the Chief Executive or other person authorised by them.

## Article 15 – Review and Revision of the Constitution

### 15.1 Duty to monitor and review the Constitution

The Monitoring Officer shall monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and shall report as appropriate to Council, and at least annually.

### 15.2 Protocol for monitoring and review of the Constitution by the Monitoring Officer

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

1. observe meetings of different parts of the Member and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders;
4. compare practices in the Council with those in other comparable authorities or national examples of best practice; and
5. take such other action as they consider appropriate.

### 15.3 Changes to the Constitution

**Approval:** Changes to the Constitution will generally only be approved by the Council after consideration of a proposal from the Monitoring Officer or by way of Members proposing a motion on notice in accordance with Council Procedure Rule 12, after consulting with the Monitoring Officer.

The Monitoring Officer has delegated authority, in consultation with Group Leaders, the Chief Finance Officer and the Monitoring Officer, to approve minor amendments to the Financial Rules and Contract Rules.

Where Officer titles and responsibilities change due to organisational changes or changes in management arrangements, the Monitoring Officer shall be empowered to amend the Constitution to reflect such changes.

The Monitoring Officer has delegated authority, in consultation with the Head of Legal Services, to approve updated references to legislation, minor amendments and additions required by legislation and minor amendments for greater clarity which do not affect the meaning of any of the articles and rules of the Constitution.

**Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult local electors and other interested persons in the District when drawing up proposals.

**Change within a Mayoral form of executive.** Unless the change relates only to the operation of the Audit and Governance and Scrutiny Committee, any resolution of the Council to approve a change will have no effect without the written consent of the Mayor.

**Change from a Mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a Mayoral form of executive. The Council must take reasonable steps to consult local electors and other interested persons in the District when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.**

## **Article 16 – Suspension, Interpretation and Publication of the Constitution**

### **16.1 Suspension of the Constitution**

**Limit to suspension:** The Articles of this Constitution may not be suspended. The Council's Rules of Procedure may be suspended by the Council or the Cabinet or a Committee to the extent permitted within those Rules and the law.

**Procedure to suspend:** A motion to suspend any Rules of Procedure will not be moved without notice unless at least one half of the whole number of the Council or the Cabinet or the relevant Committee is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1 and will only be for so long as is necessary to transact the particular item of business necessitating suspension.

**Rules capable of suspension:** The following Rules of Procedure may be suspended in accordance with Article 16.1:

- a) Council Procedure Rules except Rules 16.6 and 17.2; and Rule 15.1 in relation to Cabinet and Committee Meetings only.
- b) Financial Rules
- c) Contract Rules

### **16.2 Interpretation**

The ruling of the Chair of the Council as to the construction meaning or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.3 Publication**

The Proper Officer (Monitoring Officer) will:-

- a) give a printed or electronic copy of this Constitution to each Member of the Council upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council;
- b) ensure that copies are available for inspection at Council offices, and other locations as they consider appropriate, and can be purchased by members of the local press and the public on payment of a reasonable fee;
- c) arrange for an electronic copy of the Constitution to appear on the Council's website;
- d) ensure that a summary of the Constitution is made widely available within the District, and is updated as necessary.



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# Part C – Responsibility of Functions, Scheme of Delegation, Key Decisions and Forward Plan

## Part C1: Principles of Decision Making

### 1.1 Principles of decision making

All decisions will be made in line with the [Budget and Policy Framework](#) (Part D) 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

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. More information is contained [Part A of this Constitution](#).

### 1.2 Introduction

1.2.1 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)

- I.2.2 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.
- I.2.3 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.
- I.2.4 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
- I.2.5 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 C2 'Council Functions'](#), [Part C3 'Committee Functions'](#) and [Part C4 'Officer Non-Executive Functions'](#).
- I.2.6 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 C5 'Executive Functions'](#) below.
- I.2.7 Any reference in this Part C 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.

### **I.3 Key Decisions and Forward Plan**

#### **Key Decisions**

- I.3.1 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 wards in the area of the authority.



- I.3.2 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.
- I.3.3 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 their absence or where they are unable to act, the Deputy Chief Executive) is making an urgent decision (as set out in Paragraph 37 of the Council Procedure Rules).
- I.3.4 The Chief Executive will decide whether a decision will have a significant impact on two or more wards.
- I.3.5 A decision-taker may only make a Key Decision in accordance with the requirements of the Access to Information rules.
- I.3.6 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.
- I.3.7 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

### **Forward Plan**

- I.3.8 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.
- I.3.9 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

- I.3.10 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
- I.3.11 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
- I.3.12 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.
- I.3.13 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.
- I.3.14 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.
- I.3.15 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 and 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.
- I.3.16 In either case, the Chair of Overview & Scrutiny Committee must report on such consultations/agreements at the next meeting of Overview & Scrutiny committee.

- 1.3.17 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 disapplied 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.
- 1.3.18 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.
- 1.3.19 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.

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## Part C2: 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 polices 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, 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

Council Functions	
	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 over £1,000,000.
36	All other matters which by law must be reserved to the Council

## Policy Framework

The policy framework comprises the following plans and strategies:

- [Corporate Strategy/Corporate Plan](#)
- 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

## Part C3: Committee Functions

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.

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

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)

Overview and Scrutiny	
Consisting of 10 members	
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
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

Overview and Scrutiny	
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 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
	<b>Powers</b>
21	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 other Council body; and,  The power to call expert witnesses from outside the Council to give advice on matters under review or discussion.

Planning and Licensing Committee	
Consisting of 11 members	
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 and Licensing Committee	
	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	To determine: <ul style="list-style-type: none"> <li>• 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</li> <li>• 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 restricted posts) for householder development.</li> </ul>
5	To determine: <ul style="list-style-type: none"> <li>• 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.</li> <li>• Applications which involve an agreement under S.106 of the Town &amp; 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</li> <li>• Applications which are accompanied by an Environmental Statement.</li> <li>• 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</li> </ul>
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	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: <ul style="list-style-type: none"> <li>• Licensing Policy Statement - Licensing Act 2003</li> <li>• Gambling Policy - Statement of Principles - Gambling Act 2005.</li> </ul>

### Planning and Licensing Committee

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)

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)

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

### Audit and Governance Committee

Consisting of 7 members

#### Governance, risk and control

1	<p>Monitor the adequacy and effectiveness of the Council's governance arrangements including:</p> <ul style="list-style-type: none"> <li>• Monitoring the effectiveness of the Chief Finance Officer's responsibility for ensuring an adequate internal control environment;</li> <li>• To approve the Risk Management Policy Statement and monitor its operation;</li> <li>• Monitoring the arrangements for the identification, monitoring and control of strategic and operational risk within the Council;</li> <li>• Monitoring the adequacy and effectiveness of the arrangements in place for combating fraud and corruption;</li> <li>• 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;</li> <li>• Reviewing and approving the annual Statement of Accounts, Annual Governance Statement and its associated assurance framework;</li> </ul>
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## Audit and Governance Committee

- 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 considered to promote and maintain high standards of conduct by Officers;
- 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;
- 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.

### **Ethics and Behaviours**

- |          |   |
|----------|---|
| <b>2</b> | <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"> <li>• To monitor the operation of the Code of Conduct for Members;</li> <li>• To advise the Council on any amendment or revision of the Code;</li> <li>• To secure adequate and appropriate training of Councillors and co-opted Members on the Code of Conduct for Members;</li> <li>• 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</li> <li>• To give general guidance and advice to Councillors and employees on gifts and hospitality.</li> </ul> |
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### **External Audit**

- |          |  |
|----------|--|
| <b>3</b> | <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"> <li>• Considering the appointment, nature and scope of the external audit of the Council’s services and functions;</li> <li>• Receiving and considering all external audit reports including the annual plan, annual audit letter and governance report; and</li> <li>• Monitoring management’s response to the external auditor’s findings and the implementation of external audit recommendations.</li> </ul> |
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### **Internal Audit**

## Audit and Governance Committee

4	<p>Monitor the adequacy and effectiveness of the Internal Audit service. Specifically:</p> <ul style="list-style-type: none"> <li>• Approving the Internal Audit Charter;</li> <li>• Approving the annual risk based Internal Audit Plan;</li> <li>• Receiving communications from the Chief Internal Auditor on the internal audit activity's performance relative to its plan and other matters, including the annual report and opinion;</li> <li>• Receiving and considering major Internal Audit findings and recommendations;</li> <li>• Monitoring management's response to Internal Audit findings and the implementation of the recommendations;</li> <li>• Making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope and resource limitations;</li> <li>• Agreeing the scope and form of the external assessment as part of the quality assurance and improvement plan;</li> <li>• Receiving the results of internal and external assessments of the quality assurance and improvement programme, including areas of non-conformance with professional standards; and</li> <li>• 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.</li> </ul>
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### Treasury Management

5	<p>To consider reports on the Council's Treasury Management function including:</p> <ul style="list-style-type: none"> <li>• Recommending the Treasury Management Strategy to Council</li> <li>• Recommending the half-year and outturn Treasury Management performance reports to Council</li> <li>• 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</li> </ul>
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### Powers

6	<ul style="list-style-type: none"> <li>• 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;</li> <li>• To review any issues referred to it by the Chief Executive, other statutory officer or any Council body; and</li> <li>• The power to call expert witnesses from outside the Council to give advice on matters under review or discussion.</li> </ul>
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### Hearings Panel

7	<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"> <li>• Assess and review allegations of Member misconduct;</li> <li>• Determine allegations of Member misconduct; and</li> <li>• Agree sanctions as appropriate</li> </ul>
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### Performance & Appointments Committee (Statutory Officers)

Consisting of 7 members

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"><li>(a) decide whether the issues requires no formal action or</li><li>(b) whether the issue should be referred to an Independent Person</li><li>(c) be responsible for the appointment and terms of reference of the Independent Person</li><li>(d) receive and consider the report of the Independent Person</li><li>(e) hold a capability or disciplinary hearing</li></ul> <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.
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### 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.

### Working Groups

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 C4: Non-Executive Scheme of Officer Delegation

- 4.1 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.
- 4.2 When exercising these delegated powers, officers should maintain a close liaison with the relevant committee chair and refer any proposed action to the relevant committee if required by the chair.
- 4.3 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.
- 4.4 Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility, except those reserved by law to others.
- 4.5 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).
- 4.6 In the absence of the Chief Executive the Deputy Chief Executive is authorised to exercise any functions which are delegated to the Chief Executive
- 4.7 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 chairs should be consulted if time permits. All such decisions should be reported to the next meeting of Council or committee.
- 4.8 Certain Non-Executive decisions taken by officers must be recorded and published, in accordance with The Openness of Local Government Bodies Regulations 2014.
- 4.9 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
Unless specified otherwise, titles 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	Chief Executive and Monitoring Officer
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
13.	Determination of papers not	Section 100F(2) of the Local	Chief Executive and



No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	open to inspection by members	Government Act 1972	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

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
			all other retained posts)
27.	Power to appoint officers for particular purposes (appointment of proper officers)	Section 270(3) of the Local Government Act 1972	Chief Executive
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 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
Unless specified otherwise, titles 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
Unless specified otherwise, titles 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	n/a	Senior Officer Responsible for Legal Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	relates to a regulatory or enforcement power.		
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 persons or organisations.	n/a	Senior Officer Responsible for Legal Services
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

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
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 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	Senior Officer Responsible for Licensing and Business Support or refer to Sub Committee if previous convictions or

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
		<p>section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;</p> <p>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</p>	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 hackney 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 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

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
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 proceedings	Section 346 of the Gambling Act 2005	Senior Officer with 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

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
			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 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



No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
			if representations are received

**Functions relating to Housing, Public Health, Environmental Health and Health and Safety**

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
Unless specified otherwise, titles 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 these 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 1936 Section 29 of the Public Health (Control of Disease) Act 1984	Senior Officer Responsible for 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 I 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

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
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	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
10	Power to inspect premises and powers of entry	Animal Boarding Establishments Act 1963	Senior Officer Responsible for Operational Services  Senior Officer Responsible for Counter Fraud
11	Power to inspect premises and powers of entry (section 10)  Powers in relation to animals in distress (section 18)  Power of entry (section 19)	Animal Welfare Act 2006	Senior Officer Responsible for Operational Services  Senior Officer Responsible for Counter Fraud
12	Power to require name and address and to issue fixed penalty notices for graffiti and flyposting (section 43, 43B)	Anti-Social Behaviour Act 2003	Senior Officer Responsible for Operational Services  Senior Officer Responsible for Counter Fraud
13	Power to serve graffiti removal notices	Anti-Social Behaviour Act 2003	Senior Officer Responsible for Operational Services
14	Authority to serve community protection notices and fixed penalty notices in relation to offences in breach of community protection notices (section 43,52)	Anti-Social Behaviour Crime and Policing Act 2014	Senior Officer Responsible for Operational Services  Senior Officer Responsible for Counter Fraud

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	<p>Authorisation to issue fixed penalty notices in relation to offences in breach of Public Spaces Protection Orders (section 68)</p> <p>Power for local authority representatives to enter premises to fix a copy of a closure notice (section 70)</p> <p>Power of entry and means to secure enforcement of Closure Orders (section 85)</p>		
15	Power to inspect and of entry to dog breeding establishment	Breeding of Dogs Act 1973	<p>Senior Officer Responsible for Operational Services</p> <p>Senior Officer Responsible for Counter Fraud</p>
16	Power to inspect non-residential premises not covered by licence under the Breeding of Dogs Act 1973.	Breeding of Dogs Act 1991	<p>Senior Officer Responsible for Operational Services</p> <p>Senior Officer Responsible for Counter Fraud</p>
17	<p>Service of notice to address unsatisfactory provision for drainage, to resolve defective drainage and to resolve drainage which is prejudicial to health or a nuisance (sections 59, 76 &amp; 84).</p> <p>Powers of entry, inspection and for the purposes etc., specified (section 95).</p>	Building Act 1984	Senior Officer Responsible for Operational Services
18	Powers of entry, inspection, service of notice, to carry out works, emergency	Caravan Sites and Control of Development Act 1960 (CSCDA)	Senior Officer Responsible for

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	action and for the purposes etc., specified in the Acts.	'60) as amended by Caravan Sites Act 1968. Mobile Homes Act 2013.	Operational Services
19	Powers of entry, inspection and for the purposes etc., specified.	Christmas Day (Trading) Act 2004	Senior Officer Responsible for Operational Services
20	Dealing with offences, rights of entry and inspection and powers to request information	Clean Air Act 1993	Senior Officer Responsible for Operational Services
21	<p>Authority to serve fixed penalty notices for nuisance parking offences, powers to require names and addresses (section 6,7)</p> <p>Power in respect of graffiti and other defacement (section 28 to 30 and 32 to 34)</p> <p>Power to require name and address for fixed penalty notice (section 76)</p> <p>Powers of entry, inspection and for the purposes etc., specified (section 77)</p> <p>Warrant to enter premises by force (section 78)</p> <p>Authority to silence alarms (section 79)</p>	Clean Neighbourhoods and Environment Act 2005	Senior Officer Responsible for Operational Services
22	<p>Authority to serve notice (section 60).</p> <p>Authority to give prior consent (section 61).</p> <p>Powers of entry, inspection and for the purposes etc., specified (sections 91 and 93).</p>	Control of Pollution Act 1974	Senior Officer Responsible for Operational Services
22	Power to require production of authority to	Control of Pollution (Amendment) Act 1989	Senior Officer Responsible for

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	<p>transport controlled waste (section 5)</p> <p>Seizure of vehicles or its contents (section 5A)</p> <p>Power to serve fixed penalty notices under section 5</p> <p>Power to seize and dispose of vehicles used for illegal waste disposal if a warrant has been issued (section 6)</p>		<p>Operational Services</p> <p>Senior Officer Responsible for Counter Fraud</p>
23	<p>Power to require production of authority to transport controlled waste.</p> <p>Seizure of vehicles or its contents</p> <p>Power to serve fixed penalty notices under section 5</p> <p>Power to seize and dispose of vehicles used for illegal waste disposal if a warrant has been issued.</p>	Control of Pollution (Amendment) Act 1989	Senior Officer Responsible for Operational Services
24	Removal of unauthorised campers (sections 77 to 79)	Criminal Justice And Public Order 1994	Senior Officer Responsible for Operational Services
25	Power of complaint to court of summary jurisdiction re: dangerous dogs (section 2)	Dogs Act 1871	Senior Officer Responsible for Operational Services
26	Authority to serve fixed penalty notices for dog fouling offences (section 4)	Dog Fouling of Land Act 1996	Senior Officer Responsible for Operational Services
27	Authority to serve an FPN (£5,000) for failure of a letting agent or property manager to belong to a government approved redress scheme.	Enterprise and Regulatory Reform Act 2013	Senior Officer Responsible for Operational Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
28	<p>Power of entry for the provision of the pollution control enactments. Requisition of information, provision of unobstructed assistance as requested and all other relevant powers of this section (section 108)</p> <p>Power to deal with cause of imminent danger of serious pollution (section 109)</p>	Environment Act 1995	<p>Senior Officer Responsible for Operational Services</p> <p>Senior Officer Responsible for Counter Fraud</p>
29	<p>Prohibition of unauthorised or harmful deposit, treatment or disposal etc. of waste. Powers to Serve Fixed Penalty Notices (section 33)</p> <p>Duty of Care etc. as respects waste Powers to Serve Fixed Penalty Notices Powers to search and seize vehicles (section 34)</p> <p>Authority to serve FPN for offences of leaving commercial industrial or domestic waste receptacles on the Highway or road (section 46,47)</p> <p>Power to require removal of waste unlawfully deposited by owner (section 59/59ZA)</p> <p>Power to serve notice to require information (section 71(2))</p> <p>Authority to serve fixed penalty notices for littering (section 88)</p>	Environmental Protection Act 1990	<p>Senior Officer Responsible for Operational Services</p> <p>Senior Officer Responsible for Counter Fraud</p>

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
30	<p>Powers of entry to deal with statutory nuisances (schedule 3 para 2)</p> <p>Power to take action to abate nuisances (sections 79-81)</p> <p>Authority to issue litter abatement notices, litter clearing notices, litter control notices and serve fixed penalty notices for contraventions (sections 92(1),92(A),93,94A(2))</p>	Environmental Protection Act 1990	Senior Officer Responsible for Operational Services
31	<p>Power to serve a notice to prevent environmental damage and for the purposes specified (sections 13,15,18, 23, 27)</p> <p>Power to serve a notice to prevent further environmental damage (section 14)</p>	Environmental Damage Regulations 2009	Senior Officer Responsible for Operational Services
32	<p>Authority to serve fixed penalty notices (section 9(1))</p> <p>Authority to carry out enforcement action and instigate legal proceedings for offences (Schedule 2)</p> <p>Power of entry and inspection for the purposes specified</p>	Health Act 2006	Senior Officer Responsible for Operational Services
33	<p>Relating to the service of improvement notices and follow up action (sections 11,12,14,16,17,18)</p> <p>Relating to the service of prohibition orders and follow up action (sections 20,21,23,25 26,27)</p>	Housing Act 2004	Senior Officer Responsible for Operational Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	<p>Relating to the service of Hazard Awareness Notices (section 28,29)</p> <p>Relating to the enforcement of improvement notices (section 30,31)</p> <p>Relating to the enforcement of prohibition orders (section 32)</p> <p>Relating to emergency remedial action (sections 40, 41, 42, 43)</p> <p>Relating to the powers to charge for enforcement action and recovery of charges (section 49,50)</p> <p>Relating to temporary exemption from licensing (section 62)</p> <p>Relating to the granting and refusal of HMO licences and the revocation and variation of licences (sections 64,69,70)</p> <p>Relating to management orders; powers of entry to carry out works in default (section 131 para 3(4) schedule 3 para 25, schedule 7)</p> <p>Relating to overcrowding notices in certain houses in multiple occupation not required to be licensed (section 139,144)</p> <p>Relating to enforcement of management regulations (section 234)</p>		



No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	<p>Requiring production of documents (section 235)</p> <p>Relating to survey and examination (section 239)</p> <p>Relating to warrant to authorise entry (section 240)</p> <p>Relating to proceedings for obstruction (section 241)</p> <p>Relating to HMO declarations and revocations of HMO declarations (sections 255,256)</p> <p>Power to take action without agreement (Schedule 3 para 3(1) and para 3(4))</p>		
34	<p>Survey and examination (sections 260,319,340,600)</p> <p>Survey or valuation (sections 260,319)</p> <p>Measuring of rooms (section 337)</p>	Housing Act 1985	Senior Officer Responsible for Operational Services
35	<p>Survey and examination and to exercise the powers in section 336 of the Housing Act 1985. (section 97)</p>	Local Government and Housing Act 1989	Senior Officer Responsible for Operational Services
36	<p>Authority to requisition information (section 16)</p> <p>Relating to the service of notices for the removal of obstruction from blocked sewers. Timescale: within 48 hours or longer (section 35(1))</p>	Local Government (Miscellaneous Provisions) Act 1976	Senior Officer Responsible for Operational Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	Relating to the service of notices for the recovery of costs (section 35(3))		
37	Powers of entry, inspection and for the purposes etc., specified (section 29).	Local Government (Miscellaneous Provisions) Act 1982	Senior Officer Responsible for Operational Services
38	Power to serve a Notice to require the keeper of a dog to have it microchipped	Microchipping of Dogs (England) Regulations 2014	Senior Officer Responsible for Operational Services  Senior Officer Responsible for Counter Fraud
39	Authority to serve notices, carry out works, recover costs (sections 4 to 6)  Powers of entry, inspection and for the purposes etc., specified (section 22)	Prevention of Damage By Pests Act 1949 (PDPA 1949)	Senior Officer Responsible for Operational Services
40	Authority to serve notice (Regulation 18)	Private Water Supply Regulations 2009	Senior Officer Responsible for Operational Services
41	Relating to unlawful eviction and harassment	Protection from Eviction Act 1977	Senior Officer Responsible for Operational Services
42	Powers of entry, inspection and for the purposes etc., specified (sections 48,83,84,85, 140,287)  Relating to the service of notices requiring works to resolve overflowing and leaking cesspools (section 50(1))  Relating to the service of notices to resolve defective sanitary conveniences (section 45(1))	Public Health Act 1936	Senior Officer Responsible for Operational Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	<p>Relating to the service of notices for the cleansing for the cleansing of filthy or verminous premises (section 83(1))</p> <p>Relating to the service of notices to notify the owner and occupier of verminous premises that gas is to be used in the treatment (section 83(3))</p> <p>Relating to the cleansing or destruction of filthy or verminous articles and the cleansing of verminous persons and their clothing (sections 84,85)</p> <p>Powers to deal with pond, pools, ditches etc. and to require repair and cleansing of culverts (sections 260,264)</p> <p>Relating to making an order to recover costs for works in default to cleanse a filthy or verminous premises (sections 291,293)</p>		
43	<p>Relating to the service of notices for the repair of drains, private sewers, etc. Timescale: minimum 7days (section 17(1))</p> <p>Relating to the service of notice to remedy blocked drains, private sewers, etc. Timescale; within 48 hours (section 17(3))</p> <p>Relating to the powers to remove accumulations for rubbish (section 22)</p>	The Public Health Act 1961	Senior Officer Responsible for Operational Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
	<p>Relating to the service of notices on occupiers of verminous premises requiring vacation (section 36(1))</p> <p>Power to deal with accumulations of rubbish (section 34)</p>		
44	<p>Authority to exercise powers contained within the Act, as amended and associated regulations. Powers of entry, inspection and for the purposes etc., specified (sections 48,61,62)</p>	Public Health (Control of Diseases) Act 1984 as amended by the Health and Social Care Act 2008	Senior Officer Responsible for Operational Services
45	<p>Powers to deal with the control of dumping, abandoned vehicles recovery of expenses etc (sections 1 to 6)</p> <p>Authorisation to serve Fixed Penalty Notices (section 2A)</p>	Refuse Disposal Amenity Act 1978 (as amended) by sections 10 to 14 of the Clean Neighbourhoods and Environment Act 2005.	Senior Officer Responsible for Operational Services
46	<p>Powers of entry, inspection and for the purposes etc., specified (section 16)</p>	Scrap Metal Dealers Act 2013	Senior Officer Responsible for Operational Services
47	<p>Authority to serve Remedial Notices (Part 3 Regulation 5)</p> <p>Authority to arrange for the remedial action to be undertaken and to appoint an 'authorised person' to carry out any necessary remedial action (Part 3 Regulation 7)</p> <p>Authority to serve a Penalty Charge Notice for a landlord's breach of the duty under Regulation 6(1).</p>	The Smoke and Carbon Monoxide (England) Regulations 2015	Senior Officer Responsible for Operational Services

No.	Function	Provision of Act or Statutory Instrument (where applicable)	Responsibility/ Decision Maker
48	Powers to require furnishing of waste transfer documents within 7 days (Regulation 35)	Waste (England and Wales) Regulations 2011	Senior Officer Responsible for Operational Services  Senior Officer Responsible for Counter Fraud
49	Powers of entry, inspection and for the purposes etc., specified (section 84)	Water Industry Act 1991	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
Unless specified otherwise, titles in the third column indicate full delegation to the named officer			
I	<b>General</b>		
A	To respond on behalf of the Council to consultations from Government, Government agencies, the Local Government Association, other local authorities (except with respect to planning applications and similar consultations - see below), professional bodies and all other similar organisations, relevant to the work of the PCttee and so long as:  (i) it is not possible to assess and present the matter to the PCttee within the prescribed time for response; or,  (ii) the matter is considered to be of a relatively minor or straightforward nature not requiring prior debate by the	SOP	

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	PCttee.		
B	To provide verbal and written pre-application advice.		
C	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.	SOP	
<b>2</b>	<b>Right of Entry onto Land</b>		
	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.		
<b>3</b>	<b>Dealing with Planning and other related Applications and Notifications</b>		
A	<p><b>To determine all applications for planning permission or related consents (with or without planning conditions or obligations), comprising Listed Building Consent, Tree Preservation Order (TPO) applications, Permissions in Principle, Technical Details Consent.</b></p> <p><b>The following provisos apply:</b></p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation, Government planning policy, guidance and circulars, 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 request that an application or related consent be referred to the PCttee for determination and must provide Planning reasons for the referral.</p>	SOP	<p><b>Types of applications NOT to be determined under delegated powers</b></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 submitted by or on behalf of a Member</p>

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	<p>(iv) Should a Member wish to call in an application to the PCttee then this must be done so in writing within 28 days of the validation date of the application.</p> <p>(v) For applications submitted by or on behalf of an employee (directly or indirectly) 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 employee shall declare their interest and shall have no involvement in the processing of the application/consent. The application will be reported for determination to the PCttee, with the exception of applications made by non- Planning staff (excluding those in politically restricted posts) for Householder development and alterations to dwellings.</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>(vii) Applications where the Senior Officer for Planning considers (for reasons of public interest, or significant planning reasons) should be referred to the PCttee regardless of whether a call in request has been received in conjunction with the Chair of PCttee</p>		<p>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 Documents</p> <p>(d) Where made valid after 25/09/2024: Planning applications, Permission in Principle and Technical Details Consent applications involving either (i) the provision of 10 or more dwellinghouses, (ii) where the number of new dwellinghouses is unknown, the residential development is proposed to land comprising 0.5</p>

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
			<p>hectares or greater area, (iii) 1,000m<sup>2</sup> non-residential building floorspace or (iv) the development of 1 hectare or more land</p> <p>(excluding any such applications where amendments of, or variations to, existing permissions are sought, as defined by Sections 73A and 73B of the Town &amp; Country Planning Act 1990)</p>
B	<p><b><i>Notifications</i></b> <b><i>The following provisos apply:</i></b></p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation, Government policy, guidance and circulars, 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.</p> <p>(iii) Any Member(s) can request that a notification application be referred to the PCttee for determination and must provide Planning reasons for the referral.</p> <p>(iv) Should a Member wish to call in a notification application to the PCttee then this must be done so in writing using the agreed form within 28 days of the validation of the application. Where an application does not have all the statutory consultation responses the Member may (within the initial 28 day period) request in writing an extension to this period. This will then be considered by the SOP and responded to in</p>	SOP	<p><b>Types of notifications NOT to be determined under delegated powers</b></p> <p>(a) Notifications 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 PCttee).</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</p>



No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	<p>writing. Any extension would be expected to be within either the statutory determination date or any agreed Extension of Time with the applicant.</p> <p>(v) All notifications submitted by or on behalf of an employee (directly or indirectly) of the Council (or their partner, close relative or their partner's close relative) will be reported for determination to the PCttee, with the exception of applications made by non-Planning staff (excluding those in politically restricted posts) for Householder development and alterations to dwellings.</p> <p>(vi) If a notification cannot be brought to PCttee 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>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>
C	<p><b>Requests for Prior Approval</b></p> <p><b>The following provisos apply:</b></p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation, Government policy, guidance and circulars, 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 request 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</p>	SOP	<p><b>Types of requests for Prior Approval NOT to be determined under delegated powers</b></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>

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	<p>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 they 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 (directly or indirectly) of the Council (or their partner, close relative or their partner's close relative) will be reported for determination to the PCttee, with the exception of applications made by non-Planning staff (excluding those in politically restricted posts) for development within the curtilage of a dwellinghouse.</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 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>(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>
D	<p><b>Other Types of Application, Notification and Consultations</b></p> <p><b>This includes</b></p> <ul style="list-style-type: none"> <li>• <b>Non-material Amendments</b></li> <li>• <b>Compliance with conditions</b></li> <li>• <b>Certificate of Lawfulness of Proposed Use or Development (Section 192)</b></li> </ul> <p><b>The following provisos apply:</b></p> <p>(i) All planning decisions must pay due regard to the provisions of the Development Plan, where applicable, and to legislation, Government policy, guidance and circulars, and all other</p>	SOP	Subject to prior consultation with HLS where considered appropriate by the Case Officer, in regards to Certificates of Lawfulness.

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	relevant material considerations. (ii) Consultation with the relevant Ward Members and Town / Parish Councils / Parish Meetings is discretionary.		
E	<b><i>Applications for Certificates of Lawful Use or Existing Use or Development (Section 191)</i></b>  <b><i>The following provisos apply:</i></b>  (i) The Ward Member(s) and Town / Parish Council / Meeting, must be notified of all Section 191 applications.  (ii) Representations will be considered; however, there is no provision to allow this application type to be referred to PCttee for determination.	SOP	Subject to prior consultation with HLS where considered appropriate by the Case Officer.
4.	<b>Power to Decline to determine Application for Planning Permission, Permission in Principle or Listed Building Consent</b>	SOP	
5.	<b>Environmental Impact Assessments</b>		
A	Power to carry out all publicity and other actions related to the relevant Environmental Impact Assessment (EIA) legislative framework.	SOP	
B	Authority to require an Environmental Statement under the Environmental Impact Assessment) Regulations (or any other legislation amending or revoking and replacing that legislation) and to offer screening and scoping opinions	SOP	
6	<b>(Section 106) Planning Agreements/Obligations</b>		
A	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
B	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

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
			<p>standard models or departs from the reasons for the original imposition of the obligation.</p> <p>(b) Prior consultation with: HLS.</p> <p>(c) Subject to the same consultation and other requirements as planning applications (3.A, above)</p>
<b>7</b>	<b>Disposal of Applications</b>		
	To finally dispose of applications for planning permission, in accordance with the relevant planning legislation.	SOP	
<b>8</b>	<b>Planning Appeals</b>		
	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).
<b>9</b>	<b>Enforcement of Planning Control</b>		
A	<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>A. All assessments as to whether it is expedient to take remedial action in relation to a breach of control will take into</p>	SOP	Prior consultation with: HLS when required

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	<p>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, Government policy, guidance and circulars, and all 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>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>		
B	<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 courts where appropriate.</p> <p>Where prosecution or the serving of an official caution is undertaken, or civil or criminal court proceedings are pursued, such matters should be reported to the PCttee.</p>	HLS	
C	<p>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.</p>	SOP	Prior consultation with HLS
<b>10</b>	<b>Article 4 Directions</b>		
A	To serve and confirm Article 4 Directions.	SOP	
B	Power to withdraw Article 4 Directions where it is no longer expedient to remove PD rights	SOP	
<b>11</b>	<b>Rights of Way and Highways</b>		
	To deal with consultations from Gloucestershire County Council on Definitive Map Orders, Public Path Orders and reviews of Roads used as Public Paths –	SOP	

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	there is no requirement for Officers to undertake consultation as, if necessary, this will be done by Officers of the County Council.		
<b>12</b>	<b>Trees and Forestry</b>		
A	To exercise the Council's powers relating to the serving, revoking, varying and confirming of Tree Preservation Orders (TPOs) under the relevant legislation.	SOP	
B	To serve Tree Replacement Notices	SOP	
C	To respond to consultations from the Forestry Authority on grant applications and Tree Felling Licences (subject to there being no objections).	SOP	
D	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	
E	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	
F	To determine Hedgerow Removal Notices and ancillary matters	SOP	
G	Authority to deal with complaints about High Hedges under Part 8 of the Anti-Social Behaviour Act 2003	SOP	
<b>13</b>	<b>Listed Buildings at Risk</b>		
A	Where urgent action is necessary, to exercise the Council's powers under the following Sections of the Planning (Listed	SOP	Prior consultation with HLS

No.	Function	Responsibility/ Decision Maker	Exceptions and Conditions
	Buildings and Conservation Areas) Act 1990 (PLBCA Act). <ul style="list-style-type: none"> <li>• Sections 3 and 4 (PLBCA Act) (Building Preservation Notices)</li> <li>• Section 54 (PLBCA Act) (urgent works for the preservation of an unoccupied listed building);</li> <li>• Section 55 (PLBCA Act) (recovery of costs for works carried out under Section 54).</li> </ul>		
B	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
14	<b>Amendments to the Statutory List of Buildings of Special Architectural or Historic Interest</b>		
A	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	
B	To propose amendments to the Statutory List of Buildings of Special Architectural or Historic Interest to the relevant organisations or Government departments.	SOP	

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## Part C5: Executive or Cabinet Functions

- 5.1 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 C2), 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.
- 5.2 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
- 5.3 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 internationally
  - (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
- 5.4 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.

### 5.5 Delegations

- 5.5.1 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, Monitoring Officer, other Chief Officers, designated Council officers or designated senior Publica employee, when acting as an employee of Cotswold District Council.
- 5.5.2 The Leader has directed that the Executive Functions delegated to Cabinet Members as setout in Table 5 shall not be sub-delegated to Officers without prior consent.
- 5.5.3 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.
- 5.5.4 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 C of the Constitution is updated forthwith.
- 5.5.5 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.
- 5.5.6 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.
- 5.5.7 [Article 13 ‘Decision Making’](#) applies to the exercise of all Executive Functions in this Part.

## **5.6 Officer Delegations - Special Provisions**

- 5.6.1 The Chief Executive and Deputy Chief Executive are not required to exercise all delegations personally and may sub-delegate any Function in this Part C to Officers of suitable experience and seniority.
- 5.6.2 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 C5.
- 5.6.3 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.

- 5.6.4 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.
- 5.6.5 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.
- 5.6.6 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.
- 5.6.7 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.

## **5.7 Cabinet Member Portfolios**

- 5.7.1 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.
- 5.7.2 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
- 5.7.3 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.

## 5.8 Table of Executive Functions (Table 4)

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
<b>Policy and Strategy</b>					
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
<b>Finance</b>					
Prepare and consult on the Council's Budget and recommend to Council for approval			✓		
Receive and consider quarterly budget			✓		

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
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			✓		CX/DCX
Agree increase in fees and charges in line with inflation		✓			
<b>Service Delivery</b>					
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
<b>Commissioning and Contracts</b>					
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			✓		

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
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			✓		
Approve waiver to Contract Rules where the value does not exceed £100,000 pursuant to Contract Rule 6.2					DCX/MO
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
<b>Constitution &amp; Democratic Process</b>					
Make Key Decision		✓	✓		
Make urgent Key Decision	✓		✓		CX

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
Respond to call-in of a decision	✓	✓	✓		
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 maybe 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 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	✓				
<b>Legal Services</b>					
Undertake the role and functions of the Council's Solicitor and Chief Legal Officer and provide the Council's legal service					MO/Head of Legal Services
<b>Audit and Governance</b>					

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
Undertake the functions of the Council in respect of internal audit					DCX – SWAP
<b>HR</b>					
Undertake functions of the Council in respect of human resources and payroll					CX – MD Publica
<b>Building Control</b>					
Undertake functions of the Council in respect of building control					CX – MD Publica
<b>Assets &amp; Property</b>					
Agree asset strategic/management plan			✓		
To be notified of any disposal of non-land assets with a value exceeding £10,000			✓		DCX – MD Publica
To be notified of any disposal of non-land assets with a value not exceeding £10,000		✓			DCX – MD Publica
Make compulsory purchase order (CPO)			✓		
Acquire land or property following CPO					CX
Propose to Council a property acquisition or disposal (other than following) where the value exceeds £1,000,000;			✓		
Agree a property acquisition or disposal (other than following CPO) where the value is over £250,000 and up to £1,000,000;			✓		
Agree a property acquisition or disposal (other than following a CPO) 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) where the value does not exceed £50,000;					CDX – MD 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 – MD Publica
Dispose of, exchange or appropriate public open space (any value) where there have been objections to the			✓		



Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
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			✓		
Dispose of or exchange land with a value exceeding £250,000 up to £1,000,000 (including at an undervalue)			✓		
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 – MD Publica
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 – MD 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 – MD Publica

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
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 – MD Publica
Grant consents and licences under any leases granted by the Council					DCX – MD Publica
Apply for consents and licences under any leases under which property is held by the Council					DCX – MD Publica
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 – MD 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 – MD 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 out goings 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 out goings for the identifiable period of commitment

## 5.9 Additional Delegation of Functions to Officers

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

5.9.2 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.

### Additional Executive Functions of Officers (Table 5)

Chief Executive	
Function	Condition
Discharge any Executive Function which is delegated to an Officer under Part C	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  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 C.
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	

Chief Executive	
and to maintain a register of investigations authorised under the Act.	
The Chief Executive may take any necessary action on behalf of the Council in respect of the function of emergency planning and shall sub-delegate the same to the Managing Director of Publica Group Ltd	

Deputy Chief Executive	
Function	Condition
Discharge any Executive Function which is delegated to an Officer (including the Chief Executive) under this Part C	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.	

## 5.10 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

### 5.10.1 Decisions by Individual Cabinet Members

Decision making by Individual Cabinet Members applies only to Executive functions that have been delegated by 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. Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility except:

- a) Decisions already taken by Cabinet or an Officer acting under delegated powers.
- b) Decisions involving a departure from the Council's Budget or Policy Framework or any Cabinet or regulatory committee policy.
- c) 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.
- d) 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.

### **5.10.2 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.

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## Part C6: 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.	Council Officer / Public 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	Council Officer / Public Officer in whose name the report is written

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
238	Certification of copy by-laws	Head of Legal Services
Sch.12 Pt I 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 Pt I 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 Planning Officer
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
100F(2)	Identify which documents contain exempt information not open to inspection by Members	Monitoring Officer

#### LOCAL GOVERNMENT ACT 1974

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



<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>		
<b>Section</b>	<b>Purpose</b>	<b>Officer</b>
41	Certifying copy resolutions and minutes of proceedings	Senior Council Officer with responsibility for Democratic Services

<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>		
<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
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

<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>		
<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
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

<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>		
<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
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**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
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**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
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	Senior Council 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	Senior Council Officer with responsibility for Democratic Services
13	Produce a written statement of decisions made by individual Cabinet Members	Senior Council 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	Senior Council Officer with responsibility for Democratic Services
15 and 2	Make available for inspection a list of background papers	Senior Council 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**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
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**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
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**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
-	Designated Senior Responsible Officer	Chief Executive

**FREEDOM OF INFORMATION ACT 2000**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
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**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
Sch. I, 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, Pt I, Para.9FB	Designation as Scrutiny Officer	Senior Council 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
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 C7: 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.
- To abide by the Member Code of Conduct.

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## Part D – Procedure Rules

### Part DI: Council Procedure Rules

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## **I. MEETINGS**

The Chief Executive will produce a schedule of meetings for each Municipal Year, based on operational requirements. Once finalised, a copy of the Schedule of Meetings will be circulated to all Members of the Council and posted on the Council's website.

In addition to its Annual Meeting, a minimum of four (and normally six) ordinary meetings of the Council will be scheduled.

Any meeting which appears in the Schedule of Meetings will not normally be cancelled. However, cancellation will be considered in the absence of formal business to be transacted, or in such other exceptional circumstances (e.g. where extreme weather conditions prevent either travel to a meeting by a majority of Members or access to the meeting venue).

If cancellation of a Council Meeting is being contemplated, the Chief Executive will consult the Chair, and the Group Leaders. If there is no unanimity of view, it will be for the Chair to decide whether the meeting shall go ahead, having regard to the views expressed.

If cancellation of a Cabinet or Committee Meeting is being contemplated, the Chief Executive will consult the relevant Chair, and it will be for the Chair to decide whether the meeting shall go ahead.

## **2. ANNUAL MEETING OF THE COUNCIL**

### **2.1 Timing and Business**

In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place in May, on a date to be fixed in advance.

The Annual Meeting will:

- i. elect a person to preside if the Chair of the Council is not present;
- ii. elect the Chair of the Council;
- iii. appoint the Vice-Chair of the Council;
- iv. receive any announcements from the Chair and/or the Leader of the Council and/or the Chief Executive;
- v. receive any declarations of interest from Members and Officers;
- vi. in a year of ordinary election of councillors, elect the Leader of the Council for the four-year term of the Council, who shall be the Chair of the Cabinet;
- vii. receive the appointments of the Leader in respect of the other Cabinet members, including a Deputy Leader who shall be appointed for the four-year term of the Council and who shall be Vice-Chair of the Cabinet;



- viii. make allocations/appointments to the extant Committees of the Council; and such other committees as the Council considers appropriate;
- ix. agree any changes to the terms of reference for those Committees (as set out in Part 3 of this Constitution);
- x. receive the record of Members' attendances at meetings during the previous municipal year;
- xi. in a year of ordinary election of councillors, to receive the return of Councillors elected;
- xii. agree any changes to the scheme of delegations insofar as the Constitution determines it is for the Council to agree such functions;
- xiii. consider any business set out in the notice convening the meeting.

## **2.2 Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council will:

- i. decide which Committees to establish for the Municipal Year;
- ii. decide on any changes to the size and terms of reference for the Committees;
- iii. agree the allocation of seats to political groups in accordance with the political balance rules;
- iv. receive nominations/appointments of Councillors to serve on each committee and outside body (if appropriate); and
- v. appoint to those committees and outside bodies, except where appointment to those bodies has been delegated by the Council.

## **2.3 Variation of Order of Business**

Except for items (i), (ii) and (ii) of Rule 2.1 above, the order of business may be varied by either:

- a) the Chair at their discretion; or
- b) a resolution of the Council, passed on a motion (which need not be in writing) duly proposed and seconded which, once moved, shall be put without discussion.

### **3. ORDINARY MEETINGS**

#### **3.1 Timing and Business**

In addition to the Annual Meeting there shall be six ordinary meetings of the Council, within a Municipal year, which will take place in accordance with the agreed schedule. The Council Meeting in February each year, will deal solely with Budget/Council Tax matters.

Council meetings will commence at either 2pm or 6pm (in principle summer meetings (during BST) will be held at 6pm and winter meetings (during GMT) at 2pm, but with the exception being the February Budget/Council Tax meeting which will be held at 6pm); Ordinary Meetings will:

- i. elect a person to preside if the Chair and Vice-Chair are not present;
- ii. deal with any business required by statute to be done before any other business;
- iii. approve the minutes of the last meeting(s);
- iv. deal with any business expressly required by statute to be done;
- v. receive any declarations of interest from Members and Officers;
- vi. receive any announcements from the Chair and/or the Leader of the Council and/or the Chief Executive;
- vii. deal with questions submitted by members of the public under Rule 10;
- viii. deal with formal questions from Members under Rule 11;
- ix. deal with petitions or similar communications submitted by members of the public under Rule 23;
- x. dispose of any business from the previous Council meeting;
- xi. receive reports from the Cabinet and consider questions and answers on any of those reports;
- xii. receive reports from any of the Council's Committees and consider questions and answers on any of those reports;
- xiii. consider any issues relating to the Audit and Governance and/or Overview and Scrutiny Committee;
- xiv. consider motions submitted by Members pursuant to Rule 12, in the order in which they have been received;
- xv. consider any other business specified in the summons to the meeting; and
- xvi. authorise, where necessary, the sealing of documents.

### **3.2 Budget Meeting**

The Budget Protocol detailed at [Appendix 4](#) will apply to the budget setting meeting which takes place in February each year.

### **3.3 Variation of Order of Business**

Except for items (i), (ii) and (iii) of Rule 3.1 above, the order of business may be varied by either:

- a) the Chair at their discretion; or
- b) a resolution of the Council, passed on a motion (which need not be in writing) duly proposed and seconded which, once moved, shall be put without discussion.

### **3.4 Timings of Committees**

- a) All meetings of the Planning and Licensing Committee to start at 2.00pm.
- b) Overview and Scrutiny Committee and Audit and Governance Committee meetings shall start at 5.00pm.
- c) Meetings of the Licensing Sub-Committees to start no earlier than 2.00pm.

## **4. EXTRAORDINARY/SPECIAL MEETINGS**

### **4.1 Calling Extraordinary/Special Meetings**

Extraordinary/Special Council Meetings may be called by the following:

- i. the Council by resolution;
- ii. the Chair of the Council;
- iii. the Chief Executive;
- iv. the Monitoring Officer; and
- v. any five Members of the Council if they have signed a requisition presented to the Chair of the Council. If the Chair refuses to call a meeting or fails to call a meeting within seven working days of the presentation of the requisition, the Chief Executive shall be required to call the meeting within a further seven working days. The requisition must specify the business which it is proposed to transact at the meeting.

### **4.2 Business**

The summons for the Extraordinary/Special Meeting must set out the specified business to be transacted. No other business can be considered at the meeting, including the standing items that are included at Ordinary Meetings other than:

- i. to elect a person to preside if the Chair and Vice-Chair are not present; and
- ii. to receive any declarations of interest from Members and Officers.

## **5. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined in advance and notified in the summons.

## **6. NOTICE OF, AND SUMMONS TO, MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him/her/them to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of the meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **7. CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chair.

## **8. QUORUM**

The quorum of a meeting will be one quarter of the whole number of Members and shall, in any event, be not less than 3 Members.

During any meeting, if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

## **9. DURATION OF MEETING**

The maximum duration of one sitting of a meeting (excluding any comfort breaks) will be as shown below. When the time limit is reached the current agenda item will be completed in the normal way. Any subsequent business will fall or may be reschedule to a later meeting or the meeting may be adjourned (to conclude on a different date).

Council – four hours\*

Cabinet – four hours\*

Audit Committee – three hours

Overview and Scrutiny Committee – three hours

Planning and Licensing Committee – no maximum duration

\*For Council and Cabinet, at the conclusion of an item of business, after three hours have elapsed, a vote will be taken by a simple majority to continue for the final hour.

## **10. QUESTIONS BY THE PUBLIC**

### **10.1 Open forum questions at Council, Cabinet and Committees**

Members of the public may ask up to two oral spoken questions at Ordinary Meetings of the Council, Cabinet and Committees. A maximum period of fifteen minutes shall be allowed at any such meeting for open forum questions. Prior notice of oral questions is not required. The time limit for an oral question is one minute.

The Chair will decide on the order of questioners at the meeting.

Questions must relate to any matters in connection with which the Council, its Committees or the Cabinet, has powers or duties, or which affects the economic, social or environmental well-being of the District.

Questions must be addressed to a Cabinet Member or the Chair of Council or a Committee or Sub-Committee. If the person asking the question does not identify the Member they wish to put the question to, the Chair will decide which Member should respond, having regard to the subject matter of the question.

An answer to an oral question may take the form of:

- a) a direct oral answer;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- c) where the reply cannot conveniently be given orally, a written answer circulated within 10 working days of the date of the meeting to the questioner. The written response will be included in the minutes of the meeting.

If the Chair believes, at any time, that the questioner misconducts themselves by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Council, the Chair may move that the questions may not be further heard.

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

### **10.2 Rejecting open forum questions**

The Chair is authorised to disallow any questions which they consider to:

- be scurrilous, improper, or offensive;
- be the same or substantially the same as a question which has been asked at a previous meeting of the Council
- require the disclosure of confidential or exempt information.

## **11. QUESTIONS BY MEMBERS**

### **11.1 Questions on Reports of Cabinet/Committees**

A Member of the Council may ask the Leader, a Cabinet Member, or the Chair of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

## **11.2 Questions on Notice at Council**

Subject to Rule 11.4, a Member of the Council may, at Ordinary Meetings of the Council, ask:

- the Chair; or
- the Leader; or
- a Cabinet Member; or
- the Chair of any Committee;

A question on any matter in relation to which the Council has powers or duties or which affects the Cotswold District.

A maximum period of fifteen minutes shall be allowed at any such meeting for Member questions.

## **11.3 Questions on Notice at Cabinet/Committee Meetings**

Subject to Rule 11.4, a Member may, at Ordinary Meetings of the Cabinet and Committees, ask the Leader/Cabinet Member/Chair a question on any matter in relation to which the Council has powers or duties or which affects the Cotswold District and which falls within the terms of reference of the Cabinet/that Committee.

A maximum period of fifteen minutes shall be allowed at any such meeting for Member questions.

## **11.4 Order of Questions**

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

## **11.5 Notice of Questions**

A Member may only ask a question under Rule 11.2 or 11.3 if either:

- a) the question has been delivered in writing or by electronic mail to the Chief Executive no later than 5.00 p.m. on the working day before the day of the meeting; or
- b) the question relates to an urgent matter, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the Chief Executive by 9.30 a.m. on the day of the meeting.

## **11.6 Number of Questions**

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

### **11.7 Scope of Questions**

The Chief Executive may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council, Cabinet or Committee in the past six months; or
- requires the disclosure of confidential or exempt information.

### **11.8 Record of Questions**

A register, open to public inspection, will be maintained containing the following:-

- i. any question duly submitted, and the response provided;
- ii. any supplementary question duly asked, and the response provided;
- iii. any rejected question, with reason(s) for rejection;
- iv. a record of the date and time that the question was received.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

### **11.9 Asking the Question at the Meeting**

The Chair will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf and/or indicate that a written reply will be given. Any question duly submitted shall be dealt with at the meeting concerned.

### **11.10 Response**

An answer may take the form of:

- a) a direct oral answer;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

If a question is submitted at least seven working days prior to the meeting, a written answer will be guaranteed by no later than 24 hours prior to the meeting. A written response cannot be guaranteed to a question submitted any later than seven working days prior to the meeting but, in respect of any question that cannot be dealt with at a meeting, a written response will be provided within five working days of the relevant meeting.

### **11.11 Supplementary Question**

A Member asking a question under Rule 11.2 or 11.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The maximum length of oral supplementary questions by Members shall be one minute. The maximum length of oral responses to questions or supplementary questions by Cabinet Members or Committee Chairs to be two minutes.

A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 11.7 above.

A supplementary question may be preceded by a short preamble to set the context but, if such preamble is excessive, then the Chair shall stop the person from speaking further by way of preamble and ask him/her/them to put the question.

An immediate answer cannot be guaranteed to any supplementary question. However, the Cabinet Member or Chair will try and answer the supplementary question at the meeting, if at all possible; but if the Cabinet Member or Chair is unable to answer the question at the Meeting, then they will answer as much as possible and then provide a full response within five working days (if, for any reason, a full response cannot be provided within the five days, then a holding response will be sent, along with the reason for delay and a likely timescale for the full response). In respect of any supplementary question that cannot be dealt with at a meeting, a written response will be provided within five working days of the relevant meeting.

### **11.12 Written Answers**

Any question which cannot be dealt with during question time, because of lack of time, will be dealt with by a written answer.

### **11.13 Reference of Question to the Council, the Cabinet or a Committee**

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

## **12. MOTIONS ON NOTICE**

### **12.1 Notice**



Except for motions which can be moved without notice under Rule 13, written notice of every motion, clearly stating the Proposer and Seconder of the motion, must be delivered to the Chief Executive not later than seven working days before the date of the meeting. These will be entered in a register open to public inspection.

## **12.2 Motion set out in Agenda**

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

## **12.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Cotswold District.

## **12.4 Debate**

A motion concerning a matter within the purview of the Cabinet or any Committee which is moved and seconded shall automatically stand referred to the Cabinet or that Committee. The Chair may, however, allow the motion to be dealt with at the meeting at which it is moved if they consider it convenient and conducive to the despatch of business.

## **12.5 Voting on Motions**

At the end of a debate, the motion shall be formally concluded by a vote.

## **12.6 Record of Motions on Notice**

A register, open to public inspection, will be maintained containing the following:-

- i. any Motion on notice duly submitted, and the date and time that the Motion was received;
- ii. a record of the date and time that the Motion was received;
- iii. the outcome/decision on the Motion.

## **13. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- a) to appoint a Chair of the meeting at which the motion is moved;
- b) to question the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate committee, body or individual;

- e) to appoint a committee or members there of arising from an item on the summons for the meeting;
- f) to receive reports or adopt recommendations of the Cabinet or committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion;
- i) to proceed to the next business;
- j) to propose that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) to propose that the meeting continue beyond four hours in duration (see Rule 9);
- n) to suspend a particular Council Procedure Rule;
- o) to exclude the public and press in accordance with the Access to Information Rules;
- p) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- q) to give the consent of the Council where its consent is required by this Constitution.

## **14. RULES OF DEBATE**

### **14.1 No Speeches until Motion Seconded**

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

### **14.2 Right to Require Motion in Writing**

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

### **14.3 Secunder's Speech**

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

### **14.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech will normally exceed five minutes, although the Chair shall have ultimate discretion as to the length of speeches.

#### **14.5 When a Member may Speak Again**

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

- a) to speak once on an amendment moved by another member;
- b) to move a further amendment if the motion has been amended since they last spoke;
- c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- d) in exercise of a right of reply (see Rule 14.9);
- e) on a point of order;
- f) by way of personal explanation, (which is explained in more detail in 14.13 below);

#### **14.6 Amendments to Motions**

- a) An amendment to a motion must be relevant to the motion and will either be:
  - i. to refer the matter to an appropriate committee, body or individual for consideration or reconsideration;
  - ii. to leave out words;
  - iii. to leave out words and insert or add others; or
  - iv. to insert or add words;as long as the effect of (ii) to (iv) is not to negate the motion.
- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c) Any amendment proposed requiring the addition of more than seven words in length must be circulated to all Members present in writing as it is moved.
- d) If an amendment is not carried, other amendments to the original motion may be moved.

- e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- f) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **14.7 Alteration of Motion**

- a) A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations which could be made as an amendment may be made.

#### **14.8 Withdrawal of Motion**

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

#### **14.9 Right of Reply**

- a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c) The mover of the amendment has a right of reply to the debate on his or her amendment immediately before the mover of the original motion.

#### **14.10 Motions which may be Moved During Debate**

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

- a) to withdraw a motion;
- b) to amend a motion;
- c) to proceed to the next business;
- d) to propose that the question be now put;
- e) to adjourn a debate;

- f) to adjourn a meeting;
- g) to exclude the public and press in accordance with the Access to Information Rules; and
- h) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

#### **14.11 Closure Motions**

- a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - i. to proceed to the next business;
  - ii. that the question be now put;
  - iii. to adjourn a debate; or
  - iv. to adjourn a meeting.
- b) If a motion to proceed to next business is seconded, and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the question be now put is seconded, and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply before putting their motion to the vote.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **14.12 Point of Order**

A Member may raise a point of order at any time. A Member must stand when raising a point of order. The Chair will hear it immediately. A point of order may only relate to an alleged breach of these Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

#### **14.13 Personal Explanation**

A Member may make a personal explanation at any time. A Member must stand when making a point of personal explanation. A personal explanation may only relate to some

material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## **15. PREVIOUS DECISIONS AND MOTIONS**

### **15.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one quarter of the whole number of Members of the Council.

### **15.2 Motion Similar to One Previously Rejected**

A motion or amendment in the same terms as, or similar terms to, one that has been rejected at a meeting of Council in the past six months cannot be moved for a further six months, unless this rule is suspended pursuant to Rule 24 or Rule 37.

## **16. VOTING**

### **16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

### **16.2 Chair's Casting Vote**

If there are equal numbers of votes for and against, the Chair will have the right to exercise a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote, including the choice not to use such vote.

### **16.3 Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.6, the Chair will take the vote by show of hands.

### **16.4 Ballots**

The vote will take place by ballot if one quarter of the number of Members present at the meeting demands it. The Chair will announce the numerical result of the ballot immediately the result is known.

### **16.5 Record of Voting**

A record of all votes shall be recorded in Minutes.

### **16.6 Recorded Vote**

If, before a vote is taken, three Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot except when voting for appointments, when a ballot shall prevail.

### **16.7 Right to Require Individual Vote to be Recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **16.8 Voting on Appointments**

If there are more than two people nominated for any position to be filled, and upon a vote being taken there is not a clear majority of votes in favour of one person (i.e. the number of votes cast for one person is not greater than the total sum of the votes cast for all other nominees), then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. If at any stage in the process an equal number of votes is cast for two nominees when one of them is to be appointed or taken off the list, the issue will be determined by the drawing of lots.

## **17. MINUTES**

### **17.1 Signing the Minutes**

The Chair will sign the minutes of the proceedings (including any confidential minutes) at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record (subject to him/her/them having been present at such meeting). The only part of the minutes that can be discussed is their accuracy.

When the minutes have been signed, Members may ask questions to ascertain what progress has been made on a particular matter referred to in the minutes, but not make any other statement or generate discussion on the minutes.

### **17.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting or Special Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), or a special meeting, or the annual meeting, then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **17.3 Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Chair put them.

The minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information may not be made available to the public but a summary of the proceedings will be made available where the minutes open to inspection do not provide a reasonably fair and coherent record (see the Access to Information Procedure Rules).

## **18. RECORD OF ATTENDANCE**

A record of attendance at of Members at meetings will be shown in the minutes of the meeting.

## **19. EXCLUSION OF PUBLIC AND PRESS**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

## **20. MEMBERS' CONDUCT**

### **20.1 Standing to Speak**

When a Member speaks at Council Meetings, they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the other(s) must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation. The Chair has the right to waive the requirement for a Member to stand to speak where they consider it appropriate to do so.

### **20.2 Chair Standing**

When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### **20.3 Member Not to be Heard Further**

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

### **20.4 Member to Leave the Meeting**

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

### **20.5 General Disturbance**



If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

## **21. DISTURBANCE BY PUBLIC**

### **21.1 Removal of Member of the Public**

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

### **21.2 Clearance of Part of Meeting Room**

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

## **22. RECORDING AND/OR FILMING OF MEETINGS**

The public proceedings of Council, Cabinet, Committee and Sub-Committee meetings may be recorded by members of the public and/or the press.

This includes filming as well as audio-recording, and photography is also permitted.

At the start of a meeting, the Chair may enquire if anyone present intends to record/film proceedings (although desirable, it is not a legal requirement for an attendee to notify the Council of an intention to record/film).

Any recording/filming must not be disruptive or distracting to the good order and conduct of the meeting; and 'roaming' around the venue while recording/filming is not permitted. The Chair will exclude anyone whose behaviour is disruptive.

Any recording/filming should only be of Members and Council Officers, and not any members of the public (unless they are formally addressing the meeting or unless specific permission has been given by those individuals).

If an individual decides to reproduce any of the recording/filming, the recording/filming must not be edited in any way that could lead to misinterpretation of the proceedings. This includes not editing any image or views expressed in a way that may ridicule or show a lack of respect towards those being recorded/filmed.

In order to protect the interests of Members and Officers, and any other person addressing the Council's meetings, in case individuals do not record/film proceedings for 'genuine' purposes and/or seek to abuse any potential entitlement by editing and re-publishing extracts so that they do not accurately reflect what has actually occurred at a meeting, the Council may make its own recording (audio and/or visual) of proceedings.

## **23. PETITIONS**

Any petition or similar communication received by a Member or Officer should first be presented formally to the next meeting of the Council by the Member concerned or the Chief Executive and then referred to the Cabinet or relevant Committee for consideration.

These provisions do not apply to any petition or similar communication concerning planning applications or similar matters, which must be presented direct to the Committee responsible for such matters.

For the purposes of this Rule, a petition or similar communication must contain the names of at least ten people resident within the District.

The Local Petitions Scheme operated by the Council is included within the Council's Constitution.

## **24. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **24.1 Suspension**

All of these Council Rules of Procedure, except Rule 16.6 and Rule 17.2, may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

### **24.2 Amendment**

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

## **Part D2: Cabinet Procedure Rules**

### **2.1 Cabinet Functions**

Article 6 of the Constitution defines Cabinet functions.

At the Annual Meeting of the Council, the Leader of the Council will present, as appropriate, a report detailing:

- (i) the names of the Members to be appointed to the Cabinet;
- (ii) the services/subjects to be allocated to individual Cabinet Members;
- (iii) any changes to the delegated authority to individual Cabinet Members;
- (iv) the terms of reference and constitution of any Cabinet Committee(s) and the names of the Members appointed;
- (v) the nature and extent of any changes to delegations to Officers, including the title of the Officer and any limitation on the delegation.

The Leader of the Council can decide how Cabinet functions not included in the scheme of delegation are carried out.

### **2.2 Conflicts of Interest**

Where a potential conflict of interest arises in carrying out a Cabinet function, this should be dealt with in accordance with the Council's Code of Conduct as set out in Part E of the Constitution.

### **2.3 Cabinet agendas and meeting programme**

The Cabinet will meet in accordance with the approved schedule of meetings. The Leader of the Council may call additional Cabinet meetings, in which event the Proper Officer will make the necessary arrangements. Subject to the provisions of Council Procedure Rule 1, the Leader of the Council may also cancel Cabinet meetings where there is insufficient business to be transacted.

The Leader of the Council, as Chair of the Cabinet, has responsibility for the agenda of the Cabinet, in consultation with the Chief Executive and Proper Officer. The Leader of the Council can put any executive matter on the agenda of the Cabinet. The Leader of the Council can include urgent item(s) at the meeting, subject to any legislative provision and/or regulation in force at the time.

The Chief Executive, Monitoring Officer and Chief Finance Officer (as defined in Article 12 of the Constitution) can also require matters to be placed before the Cabinet. They can require the Proper Officer to call such a meeting in pursuance of their statutory duties.

Copies of the Cabinet agenda will be made available to all Members by the Proper Officer.

## **2.4 Cabinet Meetings**

The Leader of the Council chairs Cabinet meetings. In the absence of the Leader of the Council, the Deputy Leader will chair the meeting; and in the absence of both the Leader and Deputy Leader, another Cabinet Member will chair the meeting.

The quorum for a Cabinet meeting is 3.

The Cabinet is expected to consider matters referred to it by the Council or the Overview and Scrutiny Committee or the Audit and Governance Committee at its next available meeting, consistent with the Policy and Budget Framework and Overview and Scrutiny Procedure Rules and/or Audit Procedure Rules.

All Council Members can attend Cabinet meetings and, subject to compliance with the provisions relating to Member Questions, ask a question on a matter on the published agenda.

## **2.5 Reports to Cabinet**

All reports to the Cabinet, whether written or oral, must set out details of the consultation carried out and its outcome.

## **2.6 Decisions taken by the Leader and Individual Cabinet Members**

When the Leader and/or an individual Cabinet Member makes an executive decision, details of such decision will be reported to the ensuing Cabinet Meeting.

## **2.7 Appointments to outside bodies**

When an individual Cabinet Member makes an appointment to an outside body, a public record of this will be kept by the Proper Officer and circulated to all Members as soon as possible after the appointment has been made.

## **Part D3: Access to Information Procedure Rules**

### **1.1 Scope**

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Committee, the Audit and Governance Committee, and the Planning and Licensing Committee; together with all meetings of any Joint Committee(s) and Area Committee(s) (together called 'meetings').

### **1.2 Additional Rights to Information**

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

### **1.3 Rights to attend meetings**

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

### **1.4 Notice of meetings**

The Council will give at least five clear days' notice of any meeting or such other period of notice required by law by posting details of the meeting at the Council's main offices. The period of notice shall exclude the day of the meeting and the day of the despatch of the agenda.

### **1.5 Access to agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at its main offices at least five days before the meeting or such other period required by law.

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report has been completed and sent to Councillors.

Agendas, reports and minutes, other than those relating to Confidential or Exempt Information will also be published on the Council's website.

### **1.6 Supply of documents**

The Proper Officer will supply copies of:

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

Proper Officer thinks fit;

to any person on payment of communication charges and any other reasonable costs.

### **1.7 Access to agenda, minutes and reports etc after the meeting**

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

- a) the minutes of the meeting or records of decisions taken, together with reasons for all decisions of the Cabinet, excluding any part of the minutes or proceedings when the meeting was not open to the public or which disclose, exempt or confidential information;
- b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- c) the agenda for the meeting; and
- d) reports relating to items when the meeting was open to the public.

### **1.8 Background Papers**

#### **1.8.1 List of Background Papers**

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the author:

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

but does not include published works or those which disclose Exempt or Confidential information (as defined in 1.10) and/or, in respect of Cabinet reports, the advice of a political adviser.

#### **1.8.2 Public Inspection of Background Papers**

The Proper Officer will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

### **1.9 Summary of the rights of the public**

This Part of the Constitution meets the requirement that a written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and made available to the public at the Council's main offices.

### **1.10 Exclusion of access by the public to meetings**

The following paragraphs set out circumstances in which the public must or may be excluded from meetings, as defined by the law. However, there is a general presumption that meetings will be open to the public to attend.

#### **1.10.1 Confidential Information – Requirement to Exclude Public**

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

### **I.10.2 Exempt Information – Discretion to Exclude Public**

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

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

### **I.10.3 Meaning of Confidential Information**

“Confidential Information” means information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order.

### **I.10.4 Meaning of Exempt Information**

“Exempt Information” means information falling within the following seven paragraphs detailed in Schedule 12A of the Local Government Act 1972, as set out in the following table. These paragraphs are subject to the qualifications and interpretations identified.

Paragraph
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or 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 (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.

#### Qualifications:

- (i) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - a) the Companies Acts (as defined in section 2 of the Companies Act

- 2006);
- b) the Friendly Societies Act 1974;
- c) the Friendly Societies Act 1992;
- d) the Industrial and Provident Societies Acts 1965 to 1978;
- e) the Building Societies Act 1986; or
- f) the Charities Act 2011.

(ii) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

(iii) Information which-

- a) falls within any of paragraphs 1 to 7 above; and
- b) is not prevented from being exempt by virtue of qualifications (i) or (ii) above,

is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### Interpretations

- (i) 'Financial or business affairs' includes contemplated, as well as past or current activities
- (ii) 'Labour relations matter' means
  - a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
  - b) any dispute about a matter falling within paragraph (a) above;

and, for the purposes of this definition, the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.

- (iii) 'Employee' means a person employed under a contract of service.
- (iv) 'Officer-holder', in relation to the authority, means the holder of any paid office, appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.
- (v) 'Registered', in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).
- (vi) Any reference to "the authority" is a reference to the principal council or, as the



case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference –

- a) in the case of a principal council, to any committee or sub-committee of the council; and
- b) in the case of a committee, to –
  - (i) any constituent principal council;
  - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
  - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
- c) in the of a sub-committee, to –
  - (i) the committee, or any of the committees, of which it is a sub-committee; and
  - (ii) any principal council which falls within paragraph (b) above in relation to that committee

#### **1.11 Exclusion of access by the public and press to reports**

The Council may exclude access by the public and press to reports which, in the opinion of the Proper Officer, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication” together with the category of information likely to be disclosed.

#### **1.12 Application of rules to the Cabinet**

Rules 1.13 to 1.22 below apply to the Cabinet and to any Committees of the Cabinet. If the Cabinet or one of its Committees meets to take a key decision then it must also comply with

Rules 1 to 11 unless Rule 1.15 (general exception) or Rule 1.16 (special urgency) apply. A key decision is as defined in Article 13.8 of this Constitution.

If the Cabinet or one of its Committees meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1.1 to 1.11 unless Rule 1.15 (general exception) or Rule 1.16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief members.

#### **1.13 Procedure before taking Key Decisions**

Subject to Rule 1.15 (general exception) and Rule 1.16 (special urgency), Key Decision may not be taken unless:-

- a) it included in the Forward Plan;

- b) at least three clear days have elapsed since the publication of the Forward Plan; and
- c) where the decision is to be taken at a meeting of the Cabinet or any of its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **1.14 The Forward Plan**

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

Forward Plans will be prepared and published to cover a period of four months, beginning with the first day of any month. They will be prepared on a rolling monthly basis and subsequent plans will begin with the first day of the second month covered in the preceding plan.

### **1.14.2 Contents of Forward Plan**

The Forward Plan will contain matters which it is believed will be subject to a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, Officers, and Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision maker is an individual, their name and title, if any, and where the decision maker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of principal groups whom the decision maker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of documents submitted to the decision maker for consideration in relation to the matter.

### **1.14.3 Publication of the Forward Plan**

The Forward Plan must be published at least 14 days before the start of the period covered. The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that Key Decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of

- (e) charge at the Council's main offices;
- (e) that each Plan will contain a list of the documents submitted to the decision makers for consideration in relation to the Key Decisions on the Plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision makers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which Forward Plan will be published and available to the public at the Council's offices.

Exempt Information need not be included in a Forward Plan and Confidential Information cannot be included.

### **1.15 General Exception**

1.15.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 1.16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the near Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Proper Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, to each member of that committee in writing, by notice, if the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the main offices of the Council; and
- (d) at least three clear days have elapsed since the Proper Officer complied with (b) and (c).

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

### **1.16 Cases of Special Urgency**

Where the date by which a Key Decision must be made makes compliance with Rule 15 (general exceptions) impracticable, the decision can only be made if the decision-maker has obtained agreement from:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Chair of the Council; or
- (c) in their absence, the Vice-Chair of the Council.

### **1.17 Reports to Council**

### **1.17.1 Overview and Scrutiny Committee Requirements**

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure;
- (c) or the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chair or Vice-Chair of Council under Rule 1.16;

the Overview and Scrutiny Committee may require the Cabinet or the Cabinet Member responsible for the decision to submit a report to Council within such reasonable period as the Committee may specify. Such a report must include:

- (i) the decision and the reasons for the decision;
- (ii) the decision making body or individual by whom the decision was made; and
- (iii) if the Cabinet or Cabinet Member is of the opinion that the decision was not a Key Decision, the reasons for that opinion.

### **1.17.2 Special Urgency Decisions**

The Council will be advised of any executive decisions taken in the circumstances set out in Rule 1.16 (special urgency), to include the number of decisions taken within a specified period and a summary of the matters in respect of which those decisions were taken.

### **1.18 Record of Decisions**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding will produce a record of every decision taken at that meeting as soon as possible. The report will include a statement of the reason(s) for each decision, any consultation carried out and any alternative options considered and rejected.

### **1.19 Cabinet Meetings**

With the exception of matters falling within Rule 1.10, all meetings of the Cabinet will be held in public, whether or not the meetings relate to matters which are Key Decisions.

### **1.20 Notice of meetings of the Cabinet**

1.20.1 Members of the Cabinet or any Committee of the Cabinet will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

1.20.2 The agenda and reports for any such meeting will also be circulated to all members of the Council, unless:

- (a) any individual member indicates that they do not wish to receive specified papers; or
- (b) in exceptional circumstances, the Chair, on the advice of at least two of the statutory officers agrees that the content of a report is of such a sensitive nature that it should be circulated only to members of the relevant decision making body; or
- (c) a report contains information or advice which the Council is unable to supply to Members not involved in the making of a decision because of any statutory provision or the terms of any agreement.

#### 1.21 Attendance at Cabinet Meetings

Members of the Council who are not members of the Cabinet may attend meetings of the Cabinet and any of its Committees.

Statutory Officers and their nominees are entitled to attend any meetings of the Cabinet.

#### 1.22 Decisions by Individual Cabinet Members

Where a Cabinet Member receives a report which they intend to take into account in making any decision, then they will not make the decision until at least five clear days of receipt of that report.

A copy of the report that is given to the individual Cabinet Member will be made available to all Members of the Council, subject to the exceptions referred to in Rule 1.20 above. The report will be made publicly available. Any meeting at which the Cabinet Member will take such decision will not be open to the public.

As soon as reasonably practicable after the executive decision has been taken by a Cabinet Member, they will prepare or instruct the Proper Officer to produce a record of every decision taken at that meeting as soon as possible. The report will include a statement of the reason(s) for each decision, any consultation carried out and any alternative options considered and rejected.

The provisions of Rules 1.7 and 1.8 (inspection of documents after meetings) will also apply to the decision making by Cabinet Members. This does not require the disclosure of Exempt Information or Confidential Information or advice from a political advisor.

Any executive decision made by the Leader and/or an individual Cabinet Member will be reported to the ensuing Cabinet Meeting.

#### 1.23 Key Decisions by Officers

Where a Key Decision is going to be made by an Officer and a report is to be taken into consideration by that Officer, the decision shall not be made until the report (unless it refers to confidential or exempt information) has been available for public inspection for at least five clear days. The report shall contain a list of background papers which will also be made available.

As soon as reasonably practicable after a Key Decision has been taken by an Officer, they will prepare a record of the decision, to include a statement of the reason(s) for such decision, any consultation carried out and any alternative options considered and rejected. The record will be made available for inspection by the public at the offices of the Council together with any report (unless it refers to confidential or exempt information) considered by the decision taker and its background papers.

## **1.24 Additional rights of access for Members**

- 1.24.1 In addition to the provisions of Article 2 (Part B of the Constitution), all Members shall be entitled to receive a copy of the notice and reports of all Cabinet and committee meetings. All members of a committee shall be entitled to receive a copy of the notice and reports of any sub-committee meeting. This right is subject to Rule 1.24.2, 1.24.3 and 1.24.4 below.
- 1.24.2 Members shall have the same rights as members of the public to attend a meeting of Cabinet or a committee of which they are not a member save that the Chair, having taken the advice of the Chief Executive or the Monitoring Officer and the Proper Officer, may invite a non-Cabinet or committee member to be present at a Cabinet or committee meeting or any part of it and may allow access to reports notwithstanding that the business to be transacted:
- a) relates to individual employees of the Council; or
  - b) is of such a personal or commercial nature that the interests of confidentiality attendance at the meeting shall be restricted; or
  - c) is of a quasi judicial nature and the interest of natural justice require Members to be excluded; or
  - d) is concerned with Confidential Information.
- 1.24.3 Without prejudice to a Member's right to receive a document at their request, the Proper Officer may, notwithstanding Rule 1.24.1 above, restrict circulation of any document where in their opinion this would be unduly costly or would cause unnecessary waste or delay.
- 1.24.4 The entitlement in Rule 1.24.1 above is met if Members are sent a paper copy of the summons and agenda of the meeting and the reports and other documents are posted on the Council's website and if Members are advised that any papers relating to Confidential or Exempt Information are available, subject to Rule 1.24.2 upon request.
- 1.24.5 Notwithstanding Rule 1.24.4 above, a Member may request that any reports or other Cabinet papers are sent to him/her/them in paper form.
- 1.24.5.1 Papers circulated at a meeting will be posted on the Council's website, as appropriate, as soon as possible after the meeting. All Members will be entitled to inspect any document which is in the possession of or under the control of the Cabinet, a Cabinet Member or an employee exercising delegated powers and contains material relating to any business previously

transacted at a private meeting unless either:

- a) it contains Confidential or Exempt Information as defined in these Rules; or
- b) it contains the advice of a political adviser.

I.24.6 All Members of the Council will be entitled to inspect any document (except those only in draft form) in the possession or under the control of the Cabinet, a Cabinet Member or an employee exercising delegated powers which relates to any Key Decisions.

I.24.7 The right of a Member is additional to any other right they may have - Members have a common law right of access to all written information in possession of the Council if a need to know can be demonstrated in order to perform their duties as a Member; and the Local Government Act 1972 and related Regulations stipulate the statutory rights of Members.

## **1.25 Overview and Scrutiny Committee/Audit and Governance Committee Access to Documents**

### **1.25.1 Rights of Copies**

Members of the Overview and Scrutiny Committee and the Audit and Governance Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- a) any business transacted at a meeting of the Cabinet; or
- b) any decision taken by an individual Cabinet Member;

provided that such information is required to fulfil the role of member of that Committee.

### **1.25.2 Limit on Rights**

Members of the Overview and Scrutiny Committee and the Audit and Governance Committee will not be entitled to:

- a) any document that is in draft form;
- b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise;
- c) the advice of a political adviser.

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## **Part D4: Budget and Policy Framework Procedure Rules**

### **2.1 The Framework for Decision Making**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

### **2.2 Process for developing the framework**

The process by which the Budget and Policy Framework shall be developed is:

- a) In each year the Cabinet will publish in the Forward Plan a programme for establishing the Budget and Policy Framework for the following year. Within this programme, it may identify up to three strategic policy or resource issues on which it wishes to request studies by the Overview and Scrutiny Committee.
- b) Policy studies undertaken by the Overview and Scrutiny Committee should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. Working Groups may be established by the Committee for this purpose. The results should be presented to the Cabinet.
- c) The Cabinet will draw upon the studies in developing its proposals to the Council and, if relevant, will consult the Planning and Licensing Committee and the Audit and Governance Committee about their budget allocations.
- d) The Policy and Budget Framework to be presented to the Council will be available for public consultation for a period of 4 weeks.
- e) The Overview and Scrutiny Committee may respond to the Cabinet during the consultation process and can investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Committee into account in drawing up its final proposals to the Council and the report to the Council will reflect the comments of consultees and the Cabinet's response.
- f) In reaching a decision on the Policy and Budgetary Framework, the Council may adopt the Cabinet's proposals, amend them or substitute its own proposals in their place.
- g) In approving the Policy and Budgetary Framework presented to it by the Cabinet, the Council will also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with paragraphs 2.3 and 2.4 of these Rules. Any other changes to the Budget and Policy Framework are reserved to the Council.

### **2.3 Virement**

The Council will decide on virement limits in accordance with the nature of its functions and the size of its budget. This may be by reference to percentage of budget, number of episodes of virement or by reference to a financial limit. These details will be contained in the Council's Financial Rules.

## **2.4 In-year changes to Budget and Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, individual Cabinet Members, Officers or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy that make up the Policy Framework may be made by those bodies or individuals, except those changes:

- (i) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (ii) which are necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (iii) in relation to the Policy Framework, in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **2.5 Decisions outside the Budget or Policy Framework**

2.5.1 Subject to the provisions of paragraphs 2.3 and 2.4, the Cabinet, individual Cabinet Members, and any Officers or joint arrangements discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council, then that decision may only be taken by the Council, subject to paragraph 2.6 below.

2.5.2 If the Cabinet, individual Cabinet Members or any Officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of any of those Officers is that the decision would not be inline with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 2.6 shall apply.

## **2.6 Urgent Decision outside the Budget or Policy Framework**

2.6.1 The Cabinet, individual Cabinet Members, Officers or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by the Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a meeting of the Council; and

- (ii) if the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

2.6.2 The reasons why it is not practical to convene a meeting of the Council, and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency, must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee, then the consent of the Chair of the Council, and in their absence the Vice-Chair of the Council, will be sufficient.

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

## **2.7 Call-in of Decisions outside the Budget or Policy Framework**

2.7.1 Where the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Chief Executive and/or Monitoring Officer and/or the Chief Finance Officer.

2.7.2 In respect of functions which are the responsibility of the Cabinet, any report of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer shall be made to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to the Council in the event that the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was not a departure.

2.7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer.

2.7.4 The Council may either:

- (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing Budget and Policy Framework - in this case no further

action is required, save that the decision of the Council will be recorded in the minute and circulated to all Councillors in the normal way; or

- (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect - in this case, no further action is required save that the decision of the Council will be recorded in the minutes and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer.

## **Part D5: Meetings and Proceedings of the Cabinet and Committees**

### **3.1 Application of Council Procedure Rules to Cabinet and Committees**

Whereas all of the Council Rules of Procedure apply to meetings of the Council, only Rules 1, 6-14 (subject to Rule 14 being extended to allow a Member to speak more than once on a matter at the discretion of the Chair), and Rules 15-24 (but not Rule 20.1) apply to meetings of the Cabinet and Committees.

### **3.2 Appointment of Committees**

The Council at its Annual Meeting must appoint such Committees as it is required to appoint by or under any statute or by virtue of the Constitution.

The Council can at any other time appoint such other Committee(s) as it considers necessary or disestablish any Committee(s). It can at any time dissolve or alter the membership of a Committee.

### **3.3 Membership of the Cabinet and Committees**

The Cabinet will comprise the Leader of the Council, together with up to nine other Members to be appointed by the Leader (one of whom shall be appointed as Deputy Leader). The Leader will be elected by the Council, for a four-year term; and the Deputy Leader shall be appointed by the Leader for a four-year term.

With the exception of the Cabinet, the Regulations in respect of political proportionality on Committees will apply. Any Councillor who is not a member of a political group (a non-aligned Member) will be entitled to serve on one Committee.

Each political group will make its own decisions regarding the allocation of Committee places to its members (within the overall allocation of seats).

The places allocated across any non-aligned Members shall be filled, if at all possible, by mutual agreement across those non-aligned Members but, if agreement cannot be reached, the Chief Executive will determine the relevant Committee placings.

A Member of the Cabinet is not able also to serve on the Audit and Governance and/or the Overview and Scrutiny Committee. However, a Member of the Cabinet is able to serve on the Planning and Licensing Committee.

Neither the Chair nor Vice-Chair of the Council is able to serve on the Cabinet.

The Chair of the Council is not able to serve on the Audit and Governance and/or the Overview and Scrutiny Committee (but the Vice-Chair of the Council can).

The Chair and Vice-Chair of the Council are able to serve on the Planning Committee and Licensing Committee. However, the Chair of the Council cannot serve on any Committee of which the Vice-Chair of the Council is a Member; and vice versa.

### **3.4 Ordinary meetings of Cabinet and Committees**

Ordinary Meetings of the Cabinet and Committees will be held on the dates contained in the approved programme of meetings, and at times fixed by the Council or by the Cabinet or Committee concerned. The date and time fixed may be altered by the Leader/Chair of the Committee if, for good reason, they consider that the date and/or time fixed is inconvenient for the despatch of business.

### **3.5 Special Meetings of Cabinet and Committees**

The Leader of the Council or the Chair of the Committee may call a Special Meeting of the Cabinet or Committee at any time. A Special Meeting can also be requisitioned by at least one quarter of the whole number of the Members of the Cabinet or Committee, subject to a minimum of three Members. The requisition must be delivered in writing to the Chief Executive and must specify the business which it is proposed to transact at the meeting.

The summons for the Special Meeting must set out the specified business to be transacted, and no other business can be considered at that meeting other than:

- (i) to elect a person to preside if the Chair and Vice-Chair are not present; and
- (ii) to receive any declarations of interest from Members and Officer

### **3.6 Substitute Members**

#### **3.6.1 Substitutes generally**

For each Committee where substitution is applicable, substitutes are permitted in respect of each political group, and across non-aligned Members as if those members were to have formed a grouping. Substitution is only permitted within each political grouping, or within the non-aligned Members (i.e. a Member of a political group cannot substitute for a Member of another political group or a non-aligned Member; and a non-aligned Member cannot substitute for a Member of a political group).

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are the designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting (N.B. the substitution shall apply for the whole of the meeting, even if the meeting is adjourned and reconvened on another date); and
- (iii) they have notified Officers before or at the start of the meeting.

Notification of substitution can be made by the Member appointing the substitute, the substitute Member, or in the case of a substitution within a political group by the Leader or Deputy Leader of the relevant political group

### **3.6.2 Number**

For each Committee where substitution is applicable, there shall be no maximum number of substitutes in respect of each political group or non-aligned Members at any meeting, provided that the general requirements in respect of Committee memberships are not infringed.

### **3.6.3 Powers and Duties**

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting. Substitute Members shall abide by any voting restrictions which would have applied to the Member for whom they are substituting.

### **3.6.4 Cabinet**

Substitution shall not apply to the Cabinet.

### **3.6.5 Planning and Licensing Committee**

Members of the Cabinet and/or the Audit and Governance Committee and/or the Overview and Scrutiny Committees can substitute at meetings of the Planning and Licensing Committee.

### **3.6.6 Audit and Governance Committee**

Members of the Planning and Licensing Committee who are not also Members of the Cabinet, and Members of the Overview and Scrutiny Committee, can substitute at Meetings of the Audit and Governance Committee.

### **3.6.7 Overview and Scrutiny Committee**

Members of the Planning and Licensing Committee who are not also Members of the Cabinet, and Members of the Audit and Governance Committee, can substitute at Meetings of the Overview and Scrutiny Committee.

### **3.7 Chair of the Council and Committees**

The Chair and, unless otherwise agreed the Vice-Chair of every Committee (with the exception of the Cabinet) will be elected by Full Council at the Annual Council.

The Chair of the Council, by virtue of office, is not eligible to hold office as a Chair of a Committee during their term. No Member of the Cabinet is entitled to hold the office of the Chair or Vice-Chair of any Committee.

No Member of the Council is entitled to hold the office of the Chair of more than one Committee at any time.

The Chair of the Overview and Scrutiny shall, wherever possible be a member of the opposition.

### **3.8 Power of Requisition**

Once a vote has been taken on a matter for which the Cabinet or a Committee has power to act, the decision of the Cabinet/Committee is made. If, however, three Members of the Cabinet or Committee so request, the matter is classed as “unresolved” and shall stand referred to the next Ordinary Meeting of the Council for decision.

The request must be made immediately after the vote is taken, and before the Meeting moves on to the next item of business as set out on the agenda or within the schedule of Applications being determined by the Planning and Licensing Committee.

The effect of such an action is that the power of the Cabinet/Committee to deal with the matter is cancelled. The Cabinet/Committee will report to the Council Meeting with a recommendation. The Council will receive all the paperwork in support of the item to be decided.

### **3.9 Proposer and Secunder of Motion may attend**

A Member of the Council who has proposed a motion which has been referred to the Cabinet or any Committee of which they are not a Member is entitled to attend the Cabinet/Committee at which the motion is to be considered and to speak at the meeting, but may not vote. A similar opportunity is afforded to the Member who seconded the motion.

### **3.10 Items for Agenda**

A Member can require that an item be placed on the agenda for a Committee if they give notice of such a request to the Chief Executive not later than seven working days in advance of the meeting in question; provided that no Member may seek to exercise their right under this Rule in relation to an item which they have previously had placed on an agenda within the preceding six months, or where the matter has been debated and determined within the preceding six months.

### **3.11 Attendance of Members as Observers**

Non-Members of the Cabinet and Committees have the right to attend meetings of the Cabinet and Committees as observers, as an approved duty. They may speak by invitation only from the Chair, but may not vote.

### **3.12 Suspension of Procedure Rules**

All of the Rules of Procedure which apply to meetings of the Cabinet and Committees, except Rule 16.6 and Rule 17.2, may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Cabinet/Committee are present and support the suspension. Suspension can only be for the duration of the meeting.



Any notice of motion to suspend Procedure Rules to enable the rescinding of a decision taken within the preceding six months must be submitted in line with the normal procedure for the submission of notices of motion, except that in cases which satisfy the legal conditions of urgency, any such notice of motion be permitted to be dealt with at the meeting concerned.

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## **Part D6: Overview and Scrutiny Procedure Rules**

### **4.1 Who may sit on the Overview and Scrutiny Committee**

All Councillors except Members of the Cabinet and the Chair of the Council may be Members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision which they have been directly involved.

### **4.2 Meetings of the Overview and Scrutiny Committee**

The Committee will meet in accordance with the approved schedule of meetings. The Chair may call additional Committee meetings as appropriate, in which event the Proper Officer will make the necessary arrangements. Subject to the provisions of Council Procedure Rule 1, the Chair may also cancel meetings where there is insufficient business to be transacted.

An Overview and Scrutiny Committee meeting may also be called by any five Members of the Committee, or by the Chief Executive if they considers it necessary or appropriate.

### **4.3 Quorum**

The quorum for the Overview and Scrutiny Committee shall be one quarter of the total number of members of the Committee (rounded up if necessary), but not less than three.

### **4.4 Chairs of Overview and Scrutiny Committee Meetings**

The election of a Chair and Vice - Chair of the Committee will be determined by Full Council at the Annual Meeting.

The Chair shall, wherever possible, be a member of the opposition.

### **4.5 Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and, in doing so, it shall take into account the wishes of all Members of the Committee.

### **4.6 Agenda Items**

Any five Members of the Council who are not Members of the Overview and Scrutiny Committee may give written notice to the Chief Executive that they wish an item to be included on the agenda of the Overview and Scrutiny Committee. If the Chief Executive receives such notification, then they will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by the Committee.

The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet

and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

#### **4.7 Policy Review and Development**

The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.

The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. It may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

#### **4.8 Reports from Overview and Scrutiny Committee**

Once it has formed recommendations on proposals for development of the Council's Budget and Policy Framework, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

- a) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or the Cabinet with the majority report.
- b) The procedure for preparing a minority report is as follows:
  - i. one or more members of the meeting propose a minority report setting out the key principles and recommendation of that report;
  - ii. the Committee may discuss and ask questions about the proposed report;
  - iii. the Committee notes the report (no vote is required) and the Chair confirms that the minority report will be sent to Cabinet or Council alongside the main report;
  - iv. the Member who proposed the report shall take responsibility for writing it up following the meeting and in doing so shall take the advice of officers as to formatting and implications arising.
- c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of it being submitted to it.

#### **4.9 Making sure that Overview and Scrutiny Reports are considered by Cabinet**

- 4.9.1 Once an audit and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of four weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the audit and scrutiny report within ten weeks then the matter will be referred to Council for review, and the Chief Executive will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- 4.9.2 The Overview and Scrutiny Committee will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service development, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.
- 4.9.3 When the Overview and Scrutiny Committee makes a report to the Cabinet or the Council it may require the Proper Officer to publish the report and any recommendations arising from it. In that case, the Committee must by notice in writing require the Cabinet or the Council as appropriate within two months of the date on which it receives the report or recommendation or (if later) the notice to:
- (a) consider the report and recommendations;
  - (b) respond to the Overview and Scrutiny Committee indicating what (if any) action the Cabinet or Council proposes to take;
  - (c) where the Overview and Scrutiny Committee has published the report or recommendations, publish the response;
  - (d) where the Overview and Scrutiny Committee provide a copy of the report or recommendation to a Member, provide a copy of the response to the Member.
- 4.9.4 The publication of reports and recommendations and any responses to them are subject to the exclusion of any Confidential and Exempt Information as defined by the [Access to Information Rules](#).
- 4.9.5 Having considered a report made pursuant to this Rule, the Cabinet or the Council may send a report or make recommendations back to the Overview and Scrutiny Committee, in which case the Committee will consider such report or recommendations at its next available meeting.
- 4.9.6 Where the Overview and Scrutiny Committee makes a report or recommendations on a local improvement target or equivalent pursuant to a joint arrangement with a partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendations in exercising its functions.

4.9.7 When the Overview and Scrutiny Committee makes a report or recommendations on a local crime and disorder matter within its terms of referral, it will copy the report to the relevant Gloucestershire County Council Overview and Scrutiny Committee, notifying it of its duty under Section 19 of the Police & Justice Act 2006 to :-

- (i) consider the report or recommendations
- (ii) respond to the Committee within 28 days indicating what, if any, action it proposes to take; and
- (iii) to have regard to the report or recommendations in exercising its functions.

#### 4.10 Rights of Overview and Scrutiny Committee Members to Documents

In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the [Access to Information Procedure Rules](#) in Part D of this Constitution.

Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### 4.11 Members and Officers Giving Account

The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any executive or non-executive functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Chief Executive and/or any senior officer to attend before it to explain, in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) the Council's or the Officer's performance;
- (iv) and it is the duty of those persons to attend if so required.

Where any Member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that committee will inform the Chief Executive. The Chief Executive shall inform the Member or Officer in writing, giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the Committee will require the production of a report, or documentation, then the Member or officer concerned will be given sufficient notice to allow for preparation of that report or documentation.

Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance.

#### **4.12 Attendance by Others**

The Overview and Scrutiny Committee may invite (but cannot require) other than those referred to in Rule 4.11 above to address it, discuss issues of local concern, and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall be able to invite such people to attend.

#### **4.13 Call-In**

Call-in is the exercise of the power of the Overview and Scrutiny Committee to review a decision in respect of any executive function that has been made but not yet implemented. Once called-in, the decision cannot be implemented other than in accordance with these call-in procedures.

The following types of decisions can be called-in:-

- (i) Cabinet decisions;
- (ii) Cabinet Member decisions;
- (iii) Other Key decisions;
- (iv) Decisions made under Joint Arrangements.

HOWEVER, a decision to recommend to Council cannot be called-in.

Call-in should only be used in exceptional circumstances, such as where Members have evidence which suggests that the Cabinet or other decision-maker did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

Where a decision is made by the Cabinet or an individual Member of the Cabinet, or a Cabinet decision is made by an Officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. All Members of the Overview and Scrutiny Committee will be sent a Notification of Decisions Sheet detailing all such decisions, within the same timescale, by a representative of the Committee Services team.

The Notification of Decisions Sheet will indicate whether matters are subject to delegated action by Officers (and if so whom) or for decision by the Council. Where it is considered that the proposed action is contrary to, or not in accordance with, the Council's policy, or the Cabinet, individual Member of the Cabinet or an Officer acting under Delegated Authority from the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making) or was contrary to Officer advice, then the following call in arrangements will apply:-

- The Chief Executive, in consultation with the Monitoring Officer, must agree that the call-in complies with the criteria set out in the

- Constitution in order that it can proceed.
- Within five working days of the publication of an executive decision any three Members of the Committee (who must be from either (i) at least two political groups; or (ii) one political group and a non-aligned (independent) Committee Member, if one sits on the Overview and Scrutiny Committee) may request reference of the item to the Overview and Scrutiny Committee for consideration.
- The request shall be communicated to the Chief Executive in writing and signed by at least three Members, or by separate communication in the same terms by three Members. As an alternative, the request may be communicated separately in electronic form provided that the Chief Executive is satisfied with proof of identity of each individual Member.
- The Chief Executive will, as soon as practicable, communicate the request to:-
  - the relevant Officer identified in the Minute
  - the Chair of the Overview and Scrutiny Committee
  - the Leader of the Council.
- Upon receipt of notification the Chair shall convene a special meeting of the Overview and Scrutiny Committee within ten working days of the date of notification by the Chief Executive unless there is a meeting of the committee already programmed within twenty-one days of the notification, in which case the matter shall be referred to that programmed meeting.
- When the executive decision comes before the Overview and Scrutiny Committee, the following persons shall have a right to attend and to speak at the Committee:-
  - any one or all of the Members having requested the call-in
  - the Leader and/or the relevant Cabinet Member having portfolio responsibility for the matter under consideration
- The Overview and Scrutiny Committee shall be entitled to receive copies of any reports as set out in the [Access to Information Procedure Rules](#) in Part D of the Constitution.
- In the event of a call-in of a Cabinet Minute, the relevant Officer shall not exercise their delegated powers on the matter before it has been considered by the Overview and Scrutiny Committee and re-considered by the Cabinet or the Council in light of the Overview and Scrutiny Committee's conclusions and any recommendations.
- No matter which has been the subject of a call-in may be subject to a second call-in.

On receiving a report from the Overview and Scrutiny Committee or the Council, the decision maker shall consider the report and any recommendations and report to the next available meeting of the Overview and Scrutiny Committee the outcome of that consideration.

Where the Overview and Scrutiny Committee or the Council proposes modifications to or as alternative to the decision that was called-in, the decision maker shall either:



- a) confirm the called-in decision without modification; or
- b) confirm the called-in decision with modification; or
- c) rescind the called-in decision, taken the alternative decision, proposal or propose a new decision.

#### **4.14 Call-In and Urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests.

In order to rely on Rule 4.14, the decision maker must:

- (i) obtain the prior consent of the Chair of the Overview and Scrutiny Committee to treat the decision as urgent. In the absence of the Chair, consent may be given, in order, by the Group Leaders acting collectively; and
- (ii) the record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Leader must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Leader, the relevant Portfolio Holder's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

#### **4.15 Councillor Call for Action**

The 'Councillor Call for Action' is a method of dispute resolution, introduced by the Local Government and Public Involvement in Health Act 2007. Councillors are able to bring matters forward for investigation by a specially-convened meeting of the Overview and Scrutiny Committee, provided the following terms are met:

- (i) all other means of resolving the dispute have been explored and exhausted;
- (ii) the matter in question applies to a specific locality;
- (iii) the involvement of scrutiny has a demonstrable potential impact on the matter;
- (iv) the complaint is not ruled to be vexatious, discriminatory or unreasonable by the Overview and Scrutiny Committee.

Should this be the case, then an investigation will be conducted, involving input from as many sources affected by the issues as possible. Once the hearings have been completed,

the Committee will consider its ruling, and publish a report detailing its findings on the matter. Whilst this may detail the recommended actions to be taken by Council, it may also decide to refer the matter to another body, or indeed not to issue a report (although these last two options must be justified in full).

#### **4.16 Procedure at Overview and Scrutiny Committee Meetings**

The Overview and Scrutiny Committee shall consider the following business:

- a) minutes of the last meeting;
- b) declarations of interest;
- c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
- d) responses of the Cabinet and/or the Council to any report(s) of the Overview and Scrutiny Committee; and
- e) the business otherwise set out on the agenda for the meeting.

Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which will be conducted in accordance with the following principles:

- a) the investigation be conducted fairly and all Members of the committee will be given the opportunity to ask questions of attendees, and to contribute and speak;
  - i. those assisting the committee by giving evidence be treated with respect and courtesy; and
  - ii. the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- b) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### **4.17 Terms of Reference for Overview and Scrutiny Committee**

The terms of reference for the Overview and Scrutiny Committee are contained in Article 7 - Overview and Scrutiny Committee.

#### **4.18 Overview and Scrutiny Budget**

The Overview and Scrutiny Committee will be provided with sufficient budget resource in order to carry out its functions and to pay any reasonable fee or expense in respect of the Overview and Scrutiny process. The Chief Executive will act as the Cost Centre Manager for that budget.

## Part D7: Licensing Sub-Committee (Licensing Act 2003 matters) – Procedure for determining application

The four licensing objectives, as given by the Licensing Act 2003, are:

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

Each application that comes before the Sub-Committee will be determined on its own merits, and the licensing authority will take its decision based on:

- the merits of the application;
  - the promotion of the four licensing objectives;
  - the Council's Statement of Licensing Policy, a copy of which can be obtained from the Licensing Team
  - the amended guidance issued by the Home Office in April 2018 under Section 182 of the Licensing Act 2003.
1. Following election, the Chair opens the Meeting, introducing the Members of the Sub-Committee and Officers to the Applicant(s) and members of the public, explains the nature of the decision to be taken, and the procedure to be followed.
  2. The Licensing Officer outlines the application, any relevant representations and relevance to the Council's Statement of Licensing Policy and statutory guidance.
  3. Members may ask any relevant questions of the Licensing Officer.
  4. The Licensing Officer introduces the Applicant(s) (if present) and the Chair invites them, or the person representing the Applicant, to present their application to the Sub-Committee and to clarify any information arising from the Officer's outline, if necessary.
  5. Members may ask relevant questions of the Applicant(s) regarding the application.
  6. The Chair invites those parties, including any interested parties and/or responsible authorities, making representations to address the Sub-Committee in turn.
  7. Members may ask any relevant questions of those parties making representations.
  8. The Applicant(s) may ask any relevant questions of those parties making representations.
  9. If necessary, the Sub-Committee will consider requests to allow other parties invited by the Applicant(s) to address the Committee.
  10. Members may ask any relevant questions of any person invited by the Applicant(s) who addresses the Sub-Committee.

11. Any parties who have made representations may ask any relevant questions of any person invited by the Applicant(s) who addresses the Sub-Committee.
12. The Chair invites the Applicant(s) and any parties making representations, to briefly summarise their points if they wish.
13. The Chair ascertains that all parties are satisfied they have said all they wish to say.
14. The Sub-Committee debates the application and makes its decision; it may retire to do so, if appropriate.
15. Where a decision is made at the Meeting, the Chair notifies the Applicant(s):-
  - of the decision;
  - the reasons for the decision;
  - any Conditions placed on the licence (if granted), and the licensing objectives they relate to;
  - the rights of appeal, and that the decision will be confirmed in writing as soon as practicable following the Meeting, and within the statutory timescales.

#### NOTES

- a) All references to the Sub-Committee relate to any three Member Sub-Committees of the Planning and Licensing Committee. However, a Sub-Committee could decide not to exercise its delegated authority and refer an application to the Planning and Licensing Committee for determination, or to the Council (as the Licensing Authority). In such cases, references to 'the Sub-Committee' shall relate to the Committee or the Council, as appropriate.
- b) All references to the Licensing Officer refer to the Public Protection Manager or other appropriate Licensing Officers.
- c) All references to the Applicant(s) refer to the Applicant(s), the licensee or their representative.
- d) Hearings will take the form of a discussion led by the Sub-Committee throughout which Members, the Applicant(s) and, if appropriate, Officers and other parties, may ask questions.
- e) Parties who have made representations will be invited to address the Sub-Committee in the following order, where applicable:-
  - Gloucestershire Constabulary;
  - Gloucestershire Fire & Rescue Service;
  - the Health & Safety Executive;
  - Trading Standards Officer;
  - Child Protection Team;
  - Officers of the Council in capacity as Responsible Authorities (health and safety, planning and pollution);
  - Health Body;
  - Interested Parties;
  - Ward Member(s).
- f) Each party is allowed a maximum period of 15 minutes to make all of their relevant statements unless the Chair expressly approves otherwise, but the Sub-Committee

respectfully requests that all parties keep points pertinent and the discussion moving, in the interests of cost and efficiency.

- g) In order to avoid repetition, parties are requested to appoint a spokesperson to address the Sub-Committee where a number of the same, or similar representations, are being made.
- h) Decisions will generally be taken regardless of whether the Applicant(s) is present. All notices and representations received from absent parties will be considered.
- i) Where the decision is not made at the Meeting, it will be made within five working days of the date of that Meeting.
- j) Information which has not been produced prior to a Meeting will not be considered unless with the agreement of the Sub-Committee and all relevant parties present.
- k) Any changes in the membership of the Sub-Committee will be announced by the Chair at the start of the Meeting.
- l) The Council is committed to taking decisions in an honest, accountable and transparent fashion but, on occasion, may find it necessary to exclude members of the public and Press in accordance with the legal framework given in Schedule 12A of the Local Government Act 1972 and/or local policy. On those occasions, decisions based on the above framework will be given. Similarly, the Council generally will allow all parties to ask questions of another party present, but this decision will be taken on a case-by-case basis. Cross examination of parties is prohibited except in exceptional circumstances, when a reason will be given.
- m) The Council has the right to exclude parties disrupting this Meeting, at its discretion.

#### **Housekeeping Matters**

- Mobiles phones must be switched off or set to silent;
- No smoking throughout the building or anywhere on the site;
- In the event of the fire alarm sounding, Officers will direct you to the meeting point
- If it is a virtual meeting, please ensure that you mute whilst not speaking and raise your hand if you wish to speak. The meeting will follow the procedures closely so please ensure that you have read this.

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## **Part D8: Matters of Urgency**

### **Matters of Urgency**

The Council's Chief Executive, has delegated authority to take any action they consider necessary in the interests of the Council in cases of urgency. They must only act after consultation with the Leader of the Council, the Chair of the Council or the appropriate Committee and the relevant Ward Member(s), if any. Any action taken in this way shall be reported to the first available meeting of the Council, Cabinet or relevant Committee, as appropriate.

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## Part D9: Financial Rules

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### 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 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 (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 tax base and the setting of the Council tax.
- The preparation of the annual Statement of Accounts, in accordance with the Accounts and Audit Regulations 2015. The Section 151 Officer shall sign and date the draft Statements and the final audited Statements.
- The publishing of the Statement of Accounts, and the external auditor's Certificate, Opinion or Report each year. The Council has given delegated authority to the Audit Committee to approve the Statement. The Chair of the Committee will also sign the Statement.
- The Statement of Accounts are made available for public inspection for 30 days when an interested person, for example, business ratepayers, Council tax payers or those who pay fees and charges, may exercise their rights under the Local Audit and Accountability Act 2014 and the Local Audit (Public Access to Documents) Act 2017.
- The publication of the Annual Audit and Inspection letter received from the external auditor.
- That public notice is given of the conclusion of the audit and that the Statement of Accounts and the external auditor's report are available for inspection.

#### **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**

**A5.1** The Council has an Overview and Scrutiny Committee, responsible for the scrutiny of Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. This Committee is also responsible for making recommendations on future policy options and reviewing the general policy and service delivery of the Council.

**A5.2** The Overview and Scrutiny Committee 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 concerning any matter.

## **A6 Audit Committee**

**A6.1** The Council has an Audit Committee, responsible for ensuring effective internal control and independent assurance mechanisms across all areas of the 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 concerning any matter.

## **A7 Standards**

**A7.1** The Audit Committee is responsible for promoting and maintaining high standards of conduct amongst Members of the Council and co-opted Members on its Committees and Sub-Committees. In particular, it is responsible for advising the Council on the adoption of the Members' Code of Conduct, and for monitoring the operation of the code.

**A7.2** The Audit Committee can make reports to other Committees and the Council concerning any Standards related matter.

## **A8 Other Committees**

### **A8.1 Planning and Licensing Committee-**

Planning regulation and licensing are quasi-judicial functions and are exercised through Planning and Licensing Committee within the Council, under powers delegated by Full Council. The terms and references of the committee are set out in the Constitution.

### **A8.2 Joint Committees-**

The Council can set up Joint Committees with other organisations to oversee the management of activities or facilities. The financial activity of a Joint Committee is governed by its terms of reference. The Council's procedural and Financial Rules apply to a Joint Committee unless there has been specific agreement in line with the constitution to operate under other rules.

## **A9 Chief Executive**

**A9.1** The Chief Executive is responsible for the corporate and strategic management of the Council and fulfils the statutory role of Head of Paid Service. He or she must report to and

provide information for Full Council, Cabinet, Overview and Scrutiny Committee, 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 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's decisions.

## **A10. Monitoring Officer**

**A10.1** The Monitoring Officer is a statutory role within the Council. 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 on amendments to the constitution or making such amendments as necessary to take account of decisions of the Council, a Committee, the Cabinet or Leader and changes of law or fact. He or she shall notify Members, 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 Audit Committee.
- After consultation with the Chief Executive and the Section 151 Officer, reporting to 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.

## **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, with statutory duties in relation to the financial administration and stewardship of the Council. They (or their designated deputy) shall have the right and duty to advise the Council, Cabinet, Committees and 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 Rules and reporting, where appropriate, breaches of these rules to the Cabinet and/or full Council.
- Formally reviewing the Financial and Contract Rules every 5 years and reporting the revised Rules to the Council for approval.
- Maintaining a continuous review of the Financial and 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 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 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 Council 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 performed by the relevant third party with financial performance reported to the Council Management Team.

**A12.2** The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers are 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.
- 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'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) operate 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 Council are responsible for:

- Complying with the Financial and Contract Rules and any other internal regulatory documents of the Council.
- Keeping accurate and comprehensive records to support transactions they undertake on the 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 2015 (England) requires that the 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 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 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.

**A14.4** The 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 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 Council's External Auditor is responsible for:

- Assessing the Council's economy, efficiency and effectiveness in its use of resources (the Value For Money conclusion).
- Giving an opinion on the Council's financial statements.

## **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 Council Management Team, Publica Directors, Publica Group Managers, Publica 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

**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.

**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.
- 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 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 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.
- 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 Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers**

**B5.1** The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers 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 are responsible for:

- Contributing to the development of the Policy Framework, budgets and performance plans. 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** 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.

## **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 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 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 for approval as part of the annual Budget setting process.

**B7.5** 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 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 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 £150,000 – by Cabinet
- Amounts in excess of £150,000 – by Full 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. A Capital Strategy shall be maintained by the Section 151 Officer.

**B7.10** Once a capital project has been approved, the Council Management Team will be accountable for the delivery of the scheme through Publica. Publica must comply with the Council’s Contract 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'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 Chief Executive and Cabinet Member. In these circumstances expenditure estimates approved by the 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 Cabinet approval.

## **B11 Maintenance of Reserves**

**B11.1** Full Council must set the level of general reserves it wishes to maintain before it can decide the level of the Council Tax. Reserves are maintained as a matter of prudence. They enable the 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's reserves to Cabinet and Full Council, at the time the 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.

**B11.5** The transfer to and from general reserves shall be the responsibility of Full Council. As part of the annual budget approval process, Full 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 Budget Holders to manage budgets with a degree of flexibility within the overall Policy Framework determined by the 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

**C2.1** Full 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. Any variation from this scheme requires the approval of Full 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.

### 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 Budget Holder, in consultation with 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 or 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 or Publica 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 £150,000 –**  
Approval of Cabinet.
- **Amounts in excess of £150,000 –**  
Approval of Full Council, or as delegated in the constitution.

#### **C4.2.2 Capital Schemes:**

- **Amounts up to £50,000 –**  
Approval of 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 £150,000 –**  
Approval by Cabinet
- **Amounts in excess of £150,000 –**  
Approval of Full Council.

**C4.3** Virement that is likely to have a financial impact on the level of service activity falling under the responsibility of another Publica Group Manager should only be implemented with the approval of each 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.
- Advising the Cabinet on appropriate insurance cover for known insurance risks and assets owned and/or used in connection with the 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 Chief Executive and Council Management Team:**

**D5.1** The Chief Executive and the Council Management Team are responsible for risk management and the regular review of risk and opportunity, 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 advisors (e.g. Health & Safety Advisor).

**D5.2** 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'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 Employees**

**D6.1** Budget Holders, Council and 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 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 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) to appoint the Council's external auditors. The basic duties of the external auditors are defined in the Local Audit and Accountability Act 2014 and are set out at A.15.

**E3.2** The 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, while promoting and ensuring effective governance, internal control and assurance mechanisms.

Audit Committee is responsible for:

- 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.
- 

## **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 Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers**

**E6.1** The Council Management Team and Publica Directors, Publica Group Managers and Publica Business Managers are responsible for:

- 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. 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'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 has a 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'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 also expects that individuals and organisations (e.g. service providers, contractors and suppliers) that it comes in contact with, will act towards the Council with integrity and without thoughts or actions involving fraud and corruption.

**E7.3** The Counter Fraud Unit is responsible for the development and maintenance of a Counter-Fraud and Anti-Corruption Policy 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** The Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers are responsible for ensuring that the systems operated within their control seek to prevent or minimise the opportunity for fraud, corruption or irregularity to arise and that all staff, in the Council and Publica, act lawfully and are aware of and comply with the Council's Counter Fraud and Anti-Corruption Policy and Whistle-blowing Policy.

**E7.6** Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of the functions of the Council, the 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. The Chief Executive and the Monitoring Officer will approval any awards.

**E8.3** Compensation payments in excess of £5,000 shall only be made following a report from the Section 151 Officer and with the following approval:-

- Amounts £5,001 to £50,000 – by Cabinet Member
- Amounts £50,001 to £150,000 – by Cabinet
- Amounts in excess of £150,000 – by Council

## **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**

**F2.1** Full 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 up to £1,000,000.

**F2.3** Assets no longer required should be disposed of in accordance with the law and the rules and policies of the 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 F2.2.

**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.

### **F5 Publica Group Manager with responsibility for Land and Property**

**F5.1** The Publica Group Manager with responsibility for land and property is responsible for:

- Maintaining a terrier/asset register of all properties and assets owned by the 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 and other Officers on property-related issues.
- Processing all authorised acquisitions and disposals of land and property.
- The maintenance of Council-owned property including open-spaces. Such maintenance work to be carried out within the terms of contracts for responsive maintenance to Council properties.
- 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 (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 Council Solicitor**

**F6.1** The Council Solicitor (or other delegated Officer), in consultation with the relevant Cabinet Members and relevant Ward Member(s) and the relevant Chief Executive, has authority, in the case of the resale of former Council houses, to give the 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 houses in Areas of Outstanding Natural Beauty.

**F6.2** The 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, including:

- New leases granted by the Council
- Determination of applications for the 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 relevant Publica Group Manager)
- Licences regulating the use or occupation of 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 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-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 Deputy Chief Executive (or other delegated Officer) has similar delegated authority in relation to land purchases and easements, as set above.

**F6.5** The Deputy Chief Executive (or other delegated Officer), in consultation with the relevant Publica Group Manager and Publica Business Manager with responsibility for Property, has authority to approve the granting of way leaves, licences and other rights of use in respect of Council property.

**F6.6** The Council Solicitor (or other delegated Officer), in consultation with the Monitoring Officer or the Section 151 Officer, has the authority to instigate any investigations they considers necessary in particular cases regarding the lease of Council-owned commercial premises.

**F6.7** The 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 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 database for all land, properties, plant and machinery, and moveable assets currently owned and used by the Council.
- Managing the risk implications of the Property Portfolio, particularly in terms of insurance cover.
- Co-ordinating the security of the Council's administrative and operational offices.

## **F8 Council Management Team, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers**

**F8.1** 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 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 £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 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 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 Publica Group Manager or delegated Officer shall maintain a register of all ICT equipment above the value of £500 owned by the Council, including its location and serial number.

**F9.3** Certain equipment, to be determined by the Publica Director or Publica Group Manager responsible for Information Communication Technology, such as cameras, mobile phones, etc shall be procured by him, her or them and recorded in the ICT inventory.

**F9.4** The Council's internal IT policy and guidance should be followed, and in particular, no unofficial or unlicensed software shall be used on the Council's computer equipment, under any circumstances.

**F9.5** Computer games supplied as part of licensed software shall not be played in 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 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, who shall keep a written record and justification of such circumstances.

**F10.3** Each Publica Director or Publica Group Manager shall be responsible for the care and custody of the stocks and stores within his or her service(s).

**F10.4** Publica Directors or 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 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 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.

**F10.8** Private individuals or companies shall not be permitted to purchase items previously acquired by the 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's disposal policies.

**F10.9** Individual Members and Employees of the Council must not use the auspices of the Council to purchase works, goods or services for their personal use.

## **F11 Write-offs**

**F11.1** Limit of the Council to write off and/or dispose of obsolete stock, per individual item:

- Estimated residual value up to £250 – 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 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 Group Manager.

**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 or Publica, or ceases to be entitled to hold an advance, the Chief Executive or his or her or Publica Group Manager shall ensure that he or she accounts 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 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.

**F13.4** The Chief Executive, Publica Directors and Publica Group Managers are responsible for implementing the Council's intellectual property procedures and for putting controls in place to ensure that Officers do not carry out private work in the 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 Strategy and the associated Investment Strategy and Capital Strategy. The Strategies are proposed by the Cabinet and set 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 Strategy, Capital Strategy and Investment Strategy to the Council, in accordance with advice from the Section 151 Officer.
- Implementing and monitoring performance against the Treasury Management Statement.
- Delegating responsibility for borrowing, investment and financing to the Section 151 Officer.

### **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 they consider necessary. No bank accounts may be opened in the Council's name, or closed, without the prior approval of the Section 151 Officer.
- Instructing the Council's bankers to prohibit an overdrawn position on the aggregate bank accounts of the Council beyond the level set out in the facilities agreement between the Council and its bankers.
- Ensuring that an up to date list of all authorised bank signatories on the Council's bank accounts is maintained and made available to the Council's bankers.
- Designating Officers, employed by Publica, to act as authorised bank signatories.
- Ensuring that an up to date list of Officers holding Business Charge Cards, Government Procurement cards and Credit Cards on behalf of the 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 Publica Group Managers (see Petty Cash Financial Rules).

### **G5.2 The Chief Executive, Publica Directors and 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, 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**

**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 Publica are given access to the financial records of the Council, 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'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 Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers**

**H3.1** The Chief Executive, Publica Directors and 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, 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 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 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** Employees shall ensure that all 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's main financial management system. Reconciliations shall take place on a minimum of once per quarter.

**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 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, 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's 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.

**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
- Business Manager, Director or Assistant Director up to £100,000, subject to individual approved limit
- Director up to £250,000
- Section 151 Officer, Deputy Section 151 Officer or Chief Executive £unlimited

The Chief Executive, Publica Director or Publica 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's document retention schedule.

## **H6 Payment of Accounts**

**H6.1** The payment of all monies from the 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'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 Finance Team to be examined as considered necessary. For this purpose, 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 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 a 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. If a prepayment is unavoidable then it should be approved by 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 Chief Executive, with whom 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 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 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 and/or Managers must notify the 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.

**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'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 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 over the same time period for which the error was made. If the 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 Publica Business Manager with responsibility for 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 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 Director or Publica Group Manager as appropriate.

## **H9 Value Added Taxation**

**H9.1** The Section 151 Officer is responsible for advising 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. Written advice shall be made available to all relevant Employees.

**H9.2** The Section 151 Officer is responsible for maintaining the 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.

**H9.5** VAT must be correctly charged on income from works, goods and services supplied by the Council (Output Tax) and a valid VAT invoice or VAT receipt issued to any party outside the 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 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. 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, in consultation with the 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.

**H10.3** A trading account or business unit 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 (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 Financial Services.

**H11.2** Journals shall only be processed within the general ledger of the Council. No journals are permitted between different company/Council general ledgers.

**H11.3** The Publica Business Manager for Finance is responsible for ensuring that a monthly report of all journals raised on the finance system is produced, checked, signed and retained for audit purposes.

## **I: Income**

### **II Introduction**

**II.1** The 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.

### **II Cabinet**

**II.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

**II.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.

**II.3** Non statutory fees and charges may be increased or reduced during the year in order to remain in line with competitors and demand. The decision to be taken by the relevant Cabinet Member.

### **III Section 151 Officer**

**III.1** The Section 151 Officer is responsible for:-

- Agreeing arrangements made for the collection of income due to the 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/her/them self-regarding the arrangements for their control.
- Operating the approved procedures for the write off of bad debts (Financial Rule 19).
- Recommending to Cabinet the fees and charges to be set for all services.

### **IV Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers**

**IV.1** Each Publica Director, 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.*

- 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, 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 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 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 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 cancelling 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 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.

## **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 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 Tax Support and Housing Benefit**

### **K1 Introduction**

**K1.1** The Council is responsible for paying Local Council Tax Support and Housing Benefit to entitled claimants. It is also responsible for guarding against fraud and investigating where it is suspected. The 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 Tax 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's accounts and subsidy claims.

### **K3 Publica Group Manager with Responsibility for Revenues and Benefits**

**K3.1** The Publica Group Manager with responsibility for Revenues and Benefits is responsible for the day to day management of the 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's policy and recovery is efficient and effective.
- All fraud prevention and detection is in accordance with statute, professional guidance and the Council's financial rules and other policies.

## **L: External Arrangements**

### **LI PARTNERSHIPS**

#### **LI.1 Introduction**

**LI.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.

**LI.1.2** Partnerships play a key role in delivering community strategies and delivering the shared vision of services, based on user needs.

**LI.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.

**LI.1.4** This section of the Financial Rules sets out the financial implications of working in partnership with external organisations.

#### **LI.2 Cabinet**

**LI.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.

**LI.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.

**LI.2.3** The Chief Executive or delegated Officer shall represent the Council on partnership and external bodies, in accordance with the Scheme of Delegation.

#### **LI.3 Section 151 Officer**

**LI.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 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 Council's accounts.

## **L1.4 Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers**

**L1.4.1** The Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers are responsible for:

- Ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- Carrying out 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 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 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 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**

**L2.3.1** The Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers 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**

**L3.4.1** The Chief Executive, the Council's Retained Senior Officers, Publica Directors, Publica Group Managers and Publica Business Managers 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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# Contract Rules

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## **CONTRACT RULES**

### **SECTION 1: GENERAL COMPLIANCE AND SCOPE**

#### **1. COMPLIANCE**

1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:

1.1.1 All relevant statutory provisions including codes and statutory guidance e.g. Local Government Transparency Code

1.1.2 The relevant Public Contract Regulations and any amendments to those Regulations from time to time and, whilst they continue to have a direct effect in UK law, any public procurement directives implemented by the UK Regulations;

1.1.3 The Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation;

1.1.4 The Authority's strategic objectives, Procurement Strategy, Procurement Code (which includes template documentation) and Climate Emergency policies.

1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, goods and services:

1.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds;

1.2.2 Are appropriate for the purpose for which they are obtained;

1.2.3 Ensure Best Value for Money.

#### **2. SCOPE**

2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works, the provision of services or the supply of goods

2.2. These Contract Rules do not apply to:

2.2.1 contracts of employment which make an individual a direct employee of the Authority;

2.2.2 the acquisition, disposal, or transfer of land (except where services or works are required by the Authority as part of the land transaction) e.g. development agreements

- 2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;
- 2.2.4 purchases made at public auction.
- 2.2.5 the giving of grants

## **SECTION 2: COMMON REQUIREMENTS**

### **3. CALCULATION OF CONTRACT VALUES**

- 3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.
- 3.2 The estimated value is to be calculated as at the date, the contract is first advertised or the Candidates are contacted, whichever occurs first.
- 3.3 Contracts should be for a fixed term, but where this is not possible (e.g. hire Agreements) the contract value should be calculated by multiplying the monthly value by 48.
- 3.4 Contracts must not be artificially under, over-estimated, or divided into two or more separate contracts where the effect is to avoid the application of these Contract Rules or the Regulations.

### **4. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES**

- 4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, the Regulations and the Procurement Code.
- 4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value, by:
  - 4.2.1 appraising the need for the expenditure and its priority;
  - 4.2.2 defining the objectives of the procurement;
  - 4.2.3 assessing the risks associated with the procurement and how to manage them;
  - 4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;

- 4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
- 4.2.6 Checking to see if a corporate contract already exists. E.g. stationery contract.
- 4.2.7 Where the procurement involves a potential change to services provided by the Authority the Authorised Officer ensuring compliance with
- the Authority's duty to consult under Section 3 Local Government Act 1999
  - the Authority's duties under the Equality Act 2010.
  - The Public Social Value Act 2012 for contracts for services over the Procurement threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves
- 4.2.8 Ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract.
- 4.2.9 for Quotes with a value of £25,000 or less attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the Supplier to these standard terms and conditions;
- 4.2.10 for Tenders with a value above £25,000, instructing the Council's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract;
- 4.2.11 ensuring that a purchase order is raised for the contract.
- 4.3 Where any procurement that may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) is considered and obtain legal advice before proceeding with inviting Tenders or Quotes.
- 4.4 Any procurement that is:
- over the Threshold and TUPE applies or
  - is over budget

shall be referred to the Cabinet for decision, unless otherwise stated elsewhere in the Authority's Constitution

**5. CONTRACT VALUES**

5.1 Where the total value for a purchase is within the values in the first column below, unless the Holder procures via a compliant Framework Agreement, Draw Down Agreement or Dynamic Purchasing System the award procedure in the second column must be followed:

<b>Estimated Total Contract Value</b>	<b>Contract Letting Requirements &amp; Forms of Contract</b>
<b>£10,000 and below</b>	<p>The Budget Holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by the obtaining of two written Quotes, where possible and via the Procurement Portal where appropriate</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p>



<p><b>Above £10,000 to £25,000</b></p>	<p>At least three written Quotes shall be sought through the Portal using the Request for Quote template.</p> <p>Where a procurement opportunity with a value estimated to be £25,000 or above is advertised, it must be also be advertised on Contract Finder using the portal within 24 hours of any other adverts appearing together with unrestricted and full direct internet access to relevant contract documents.</p> <p>A pre-qualification stage is not permitted but appropriate suitability questions may be asked in the Request for Quote.</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p> <p>If the lowest Quote received exceeds £25,000 the contract shall not be awarded unless the contract is below the relevant Threshold <b>and</b> either</p> <ul style="list-style-type: none"> <li>• a waiver is approved in accordance with Rule 6.1 or</li> <li>• approval is given by the Section 151 Officer.</li> </ul> <p>Unless a waiver or approval of the Section 151 Officer is given a new procurement will be required which must be carried out in accordance with the above £25,000 to Threshold procedures.</p>
<p><b>Above £25,000 to Threshold</b></p>	<p>A full competitive procurement shall be undertaken though the Portal using an Invitation to Tender.</p> <p>The opportunity must be advertised on Contract Finder (within 24 hours of any other adverts appearing and/or public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to the relevant contract documents.</p> <p>A pre-qualification stage is not permitted except for procurements of works contracts above the Threshold for supplies and services. A PAS91 pre-qualification questionnaire must be used.</p> <p>A formal written contract prepared or approved but the Authority's Solicitor must be used.</p>

	<p>If the lowest Tender received exceeds the relevant Threshold then the contract shall not be awarded. A new procurement will be required which must be carried out in accordance with the Threshold and Above procedure.</p>
<p><b>Threshold and Above</b></p>	<p>A full competitive procurement shall be undertaken through the Portal using an Invitation to Tender.</p> <p>Procurement opportunities shall be advertised</p> <ul style="list-style-type: none"> <li>• Using the UK e-notification service, Find a Tender (FTS) e-notification service as required by law.</li> <li>• On Contract Finder within the time limit specified in the Regulations</li> </ul> <p>The Procurement Adviser, in consultation with the Authority's Solicitor, shall advise on the most appropriate procurement procedure to be used when conducting a procurement. The Regulations set out the permitted procurement procedures; the two most common procedures are:</p> <ul style="list-style-type: none"> <li>• Open Procedure – a one stage tender process where anyone can submit a tender</li> <li>• Restricted Procedure – a two-stage process where a Selection Questionnaire is used to shortlist Candidates who are then invited to submit a tender.</li> </ul> <p>The following procedures can only be used in certain circumstances.</p> <ul style="list-style-type: none"> <li>• <b>Innovation Partnership</b> - This may be used when the Authority is seeking innovative ideas where solutions are not already available in the market and there is also an intention to include both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement</li> </ul> <p>A structured partnership will be established for the development of an innovative product, service or works and the subsequent of the resulting supplies, service or works, provided that they correspond to the agreed performance levels and costs.</p>

	<ul style="list-style-type: none"> <li>• <b>Competitive Dialogue</b> - This can be used where either of the following apply: <ul style="list-style-type: none"> <li>i. The need of the Authority cannot be met without adaption of readily available solutions;</li> <li>ii. They include design or innovative solutions;</li> <li>iii. Specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them;</li> <li>iv. The technical specifications cannot be established with sufficient precision with reference to a standard, Technical Assessment, common technical specification or technical reference;</li> <li>v. Where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the Candidates that meet certain criteria and submitted tenders in accordance with the failed procedure.</li> </ul> </li> <li>• <b>Competitive Procedure with Negotiation</b></li> </ul> <p>This procedure can be used for the same reasons as competitive dialogue. With this procedure, the Authority can negotiate with Candidates who have submitted tenders to seek improved offers.</p> <p>A formal written contract prepared or approved by the Authorities Solicitor must be used.</p>
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<p><b>Light Touch Regime</b></p>	<p>Contracts involving the following supplies and services are subject to a 'light touch' regime if the value of the contract is below the prescribed Threshold;</p> <ul style="list-style-type: none"> <li>• Health, social and related services</li> <li>• Administrative social, educational, healthcare and cultural services</li> <li>• Compulsory social security services</li> <li>• Benefit Services</li> <li>• Other community, social and personal services including services furnished by trade unions, political organisations, youth association and other membership organisation services</li> <li>• Legal Services</li> <li>• Other administrative services and government services</li> <li>• Prison related services, public security and rescue services</li> <li>• Investigation and security services</li> <li>• International services</li> <li>• Postal Services</li> <li>• Miscellaneous services listed in schedule 3 of the Public Contracts Regulations 2015</li> </ul> <p>Advice must be sought from the Procurement Adviser before undertaking a Light Touch Regime procurement.</p> <p>A formal written contract prepared or approved by the Authority's Solicitor must be used.</p>
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<p>Concessions</p>	<p>A concession contract is an agreement where Suppliers are given the right to exploit works or services provided for their own gain. Suppliers can either receive consideration for their services solely through third party sources or partly through payment from the contracting authority along with income received from third parties e.g. a services concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority does not pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the concession making a profit is with the Supplier and not the Authority.</p> <p>A formal written contract prepared/approved by the Authority's Solicitor must be utilised</p>
<p>Disposal of assets (other than land)</p>	<p>Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.</p>
<p>Disposal of Land</p>	<p>These contract rules apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (E.g. regeneration projects)</p>

## 6. WAIVERS

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

6.1.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade or
- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative Suppliers

or

6.1.2 The goods or materials to be purchased are proprietary articles or are sold only at fixed prices; or

6.1.3 The price of services, or supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or

6.1.4 Where in the opinion of the Authorised Officer in consultation with the s151 Officer and the Authority's Solicitor considers that the services to be provided or the work to be executed or the goods or materials to be purchased are urgent; (subject to the action being reported to the next Cabinet Meeting) or

6.1.5 Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:

- There is no satisfactory alternative; or
- Evidence indicates that there is likely to be no genuine competition; or
- It is, in the opinion of the Authorised Officer in consultation with the Section 151 Officer and the Authority's Solicitor in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser; or

6.1.6 Where the Authority is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to acquire those contracts; or

6.1.7 The works to be executed or the goods or materials to be purchased can only be carried out or supplied by a statutory body.

6.2 ***These Contract Rules cannot be waived for the procurements above the prescribed relevant Threshold.***

Where it is possible to waive these Contract Rules, any such waiver must be agreed by:

6.2.1 Cabinet for contracts above £100,000.00 or the Chief Executive in consultation with the Leader of the Authority, the Section 151 Officer and the Authority's Solicitor if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or

6.2.2 The Budget Holder (if authority has been delegated to them in accordance with the Constitution) , in consultation with the Section 151 Officer and the Authority's Solicitor if the contract does not exceed £100,000.00

6.3 A record of the decision and the reasons for it shall be kept and the wavier itself shall be sent to Procurement.

### **SECTION 3: QUOTATION AND TENDERING PROCESS**

#### **7. ADVERTISING (above £25,000)**

7.1 Adverts shall include as a minimum:

- Date and time response to be received by the Authority
- How and to whom the Supplier must respond
- Any requirements for participating in the procurement

7.2 Where adverts are placed on Contract Finder, unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's Procurement portal free of charge when the advert is placed.

7.3 Opportunities with a value over the relevant Threshold must also be advertised on the Find a Tender website by submitting a Contract Notice using the Authority's Procurement portal.

#### **8. SUITABILITY ASSESSMENT (under threshold) AND PRE-QUALIFICATION (above threshold only)**

8.1 Authorised Officers are responsible for ensuring that all Candidates for a Contract are suitably assessed. Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000

## **Under Threshold**

8.2 As part of the tender or quotation process Authorised Officer shall establish that the potential Candidates meet minimum requirements or minimum standards of :

- Suitability.
- Capability.
- Legal status; and
- Financial standing

8.3 The assessment questions must be

- relevant to the subject matter of the procurement and
- proportionate

8.4 For works contracts above the lower Threshold (supply and services Level) a pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use PAS91 for works or works related contracts or such other required templates required by law or by the Government.

## **Above Threshold**

8.5 Procurements above the Threshold can use a Pre-Qualification stage. Officers must use the Selection Questionnaire form issued by the Government or for works contract form, PAS91 or such other templates as required by law or by the Government.

Any deviations from the standard form must be reported to the Cabinet Office. Changes to the form are not permitted without the consent of the Procurement Adviser, Section 151 Officer and the Borough Solicitor.

Any Candidate eliminated from a procurement where a pre-qualification process has been undertaken must be notified following evaluation of that stage in the process.

## **9. ELECTRONIC TENDERING**

9.1 On the 18<sup>th</sup> October 2018, electronic procurement and electronic communications became compulsory for above Threshold procurements. Except in the limited circumstances contained in the Regulations, all communication and information exchange, including electronic submission of tenders, shall be performed used electronic means of communication in accordance with the requirements of the Regulations.

9.2 Except for procurements with a value of £10,000 or below, the procurement shall be carried through the Portal unless otherwise permitted by these Contract Rules



or by the Procurement Advisor and the Section 151 Officer. For quotes under £10,000, the Portal should be used where appropriate to do so.

## **10. DIVIDING TENDERS INTO LOTS**

- 10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject matter of such lots.
- 10.2 For an above Threshold procurement, If the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Regulation 84 Report.
- 10.3 Authorised Officers shall include in the notice and or tender documents whether:
  - 10.3.1 tenders can be submitted for one, for several or for all of the lots; or
  - 10.3.2 if there is a limit on the numbers of lots that can be tendered for.
- 10.4 Where more than one lot may be awarded to the same tenderer, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

## **11. SUBMISSION AND OPENING OF TENDERS AND QUOTES**

- 11.1 Tenders and Quotes shall be submitted in accordance with requirements set out in in the Invitation to Tender or Request for Quote.

### **Tenders and Quotes (£10,000 and above)**

- 11.2 Tenders and Quotes must be submitted electronically via the Portal, where appropriate, and the Authorised Officer shall ensure that the submissions are kept secure and un-opened until the specified date and time. The Authorised Officer shall carry out opening of the Tenders and Quotes in accordance with instructions given by the Procurement Adviser.
- 11.3 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Adviser, the Section 151 Officer and the Monitoring Officer is satisfied that there is sufficient evidence that either;

- the Tender or quote was dispatched in sufficient time for it to have arrived before the closing date and time
- Technical difficulties with the Portal prevented the Tender or
- Quote from being submitted before the closing date and time

## 12 **ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND LOW TENDERS**

12.1 Candidates can only alter their Tenders or Quotes after the date specified for their receipt but before the formal acceptance of the Tender or Quote, where examination by officers of the Tender or Quote reveals arithmetical errors or discrepancies, which affect the Tender or Quote figure. The Candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.

12.2 In an above Threshold Procurement, the Authority must require tenderers to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.

All other post-tender clarifications shall:

12.2.1 only be undertaken following consultation with the Procurement Adviser and the Authority's Solicitor; and

12.2.2 not disclose commercially sensitive information supplied by other Candidates

## 13 **EVALUATION**

13.1 Tenders and Quotes shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender or Request for Quote.

13.2 All contracts shall be awarded based on the offer, which represents the most economically advantageous, taking into account price and/or quality, to the Authority.

13.3 The award criteria shall be predetermined and listed in the Invitation to Tender or Request for Quotation documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

13.4 For all Contracts regardless of value, no person with a personal or financial interest in any of the Contractors submitting a proposal should be involved in any way in influencing the decision as to which Contractor is to be awarded the Contract. Each officer involved in the evaluation must complete a declaration of interest form and held on file by the Authorised Officer

13.5 Where Authorised Officers intend to carry out site visits, presentations or interviews as part of the evaluation process, this must be made clear in the Invitation to Tender or Request for Quote and include confirmation whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, Candidates must be informed of the evaluation criteria and weighting in the Tender documents.

#### **14. AWARDING CONTRACTS**

14.1 The Authority shall only accept a tender and award a contract to the Candidate submitting the Most Economically Advantageous Tender/Quote

14.2 Depending on what is being procured and whether or not it is an above Threshold procurement , the Most Economically Advantageous Tender/Quote can be assessed as follows;

- Price (i.e. the lowest bid).
- Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs).
- Best Price/Quality Ratio. (the award criteria can include quality, including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender or Request for Quote.

14.3 A contract may only be awarded by an Awarding Officer with the requisite Delegated authority to award contracts. Prior to award, the Authorised Officer should ensure the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.

14.5 For above Threshold Contracts, a Contract Award Notice must be published in the UK e-notification service, Find a Tender Service (FTS), as required by law or by the Government and the relevant standstill period observed. The contract shall not be completed or a Purchase Order issued unless the standstill period passes with no challenges. The Authorised Officer shall notify the Procurement Adviser and the Authority's Solicitor immediately following receipt of a challenge.

For contracts with a value of £25,000 and above, the purchase order shall not issued until the formal written contract has been completed.

15. **DEBRIEFING**

- 15.1 The Authorised Officer shall provide a written debriefing to unsuccessful Tenderers as required by the law.

**SECTION 4 – CONTRACT FORMALITIES**

16. **EXECUTION OF CONTRACTS**

- 16.1 All contracts not exceeding £25,000 shall be signed by the relevant Budget Holder, unless the Authority's Solicitor requires the contract to be sealed.
- 16.2 All contracts exceeding £25,000 but not exceeding £50,000 shall be signed by the Authority's Solicitor unless the Authority's Solicitor requires that the contract be sealed.
- 16.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Authority's Solicitor and the common seal affixed to the contract unless the Authority's Solicitor considers it more expedient to sign the contract.
- 16.4 Electronic signatures may only be permitted as a method of executing contracts with prior consent of the Section 151 officer having first obtained advice from the Authority's Solicitor

17 **RECORDS OF QUOTES TENDERS AND CONTRACTS**

- 17.1 The Procurement Adviser shall maintain a list of all Tenders and Quotes over £25,000 received. For procurements not exceeding £25,000, the Authorised Officer is responsible for keeping records of Tenders and Quotes received in such form as required by the Procurement Adviser.
- 17.2 All contracts with a value of £25,000 and above shall be kept by the Authority's Solicitor and a copy shall be sent to the Procurement Adviser.
- 17.3 All contracts below that value shall be kept securely by the Budget Holder in accordance with the Authority's retention policy and a copy sent to the Procurement Adviser.

18            **BONDS AND PARENT COMPANY GUARANTEES**

18.1           Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 or for a contract of a lesser value if considered appropriate by the Section 151 Officer following consultation with the Authority's Solicitor.

18.2           Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the Authority's Solicitor.

18.3           Bonds shall be a minimum of 10% of the contract value.

19.           **EMBEDDED LEASES & EMBEDDED DERIVATIVES**

19.1           Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:

19.1.1        the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or

19.1.2        contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or

19.1.3        the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or

19.1.4        the prices the Authority has to pay, increase by some other form of Indices or commodity price

## **SECTION 5: SPECIFIC TYPES OF TENDERING**

### **20. FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS**

#### **FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS SET UP BY OTHER CONTRACTING AUTHORITIES**

- 20.1 External Framework Agreements and Dynamic Purchasing Systems (DPS), where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a new procurement exercise.
- 20.2 The Framework Agreement and DPS may include within its terms a requirement for a mini competitive exercise between some or all of those Suppliers who are parties to the Framework Agreements and can provide the goods/services being tendered. Other Framework Agreements and DPS may allow for a direct award or the choice of either direct award or mini competition. Any Call-Off from a Framework Agreement shall be tendered in accordance with the procedure set out in the Framework Agreement or DPS.
- 20.3 The approval of the Procurement Adviser or Borough Solicitor shall be sought before signing up to a new Framework Agreement or DPS.
- 20.4 A Call-Off contract as set out in the Framework Agreement or DPS will need to be entered into. If no pre agreed contract is provided for in the Framework Agreement or DPS, a contract drafted or approved by the Borough Solicitor, shall be entered into.

#### **FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS SET UP BY THE AUTHORITY**

- 20.5 The Authority may carry out procurement exercises to set up Framework Agreements or DPS to allow it to choose Suppliers who meet its pre-Qualification requirements. The Authority can then Call-Off Suppliers from The Framework Agreement or the DPS without having to carry out a further Procurement exercise. This could be useful where the Authority has need to call on Contracts urgently or often. The Authority could also set up a framework agreement for itself and other local authorities to use in order to make efficiency savings.
- 20.6 Once a Framework Agreement or DPS is established, Quotes and Tenders for contracts may be invited from Suppliers included on the Framework Agreement up to the limit stated in the Framework or DPS
- 20.7 The Authority will need to carry out a procurement exercise to select the Suppliers to include on the Framework Agreement or DPS. This procurement will need to be advertised in accordance with these Contract Rules. The

Contract Value is to be determined by the anticipated level of spend per Framework Agreement or DPS.

## **PUBLISHING THE AWARD OF CALL-OFF CONTRACTS UNDER ALL FRAMEWORK AGREEMENTS**

- 20.8 The call off of a contract under a framework with a value of £25,000.00 or over shall be published on Contract Finder

## **21. DRAW DOWN AGREEMENTS**

- 21.1 Authorised Officers may award Draw Down Agreements to individual suppliers where services, supplies or works are required on an ad hoc basis. E.g., JCT measured terms agreements. More than one Draw Down Agreement may be awarded to different Suppliers for the same services supplies or works.

## **22 COLLABORATIONS AND JOINT PROCUREMENT**

- 22.1 The Authorised Officer may participate in any collaborative or joint procurement arrangements with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the relevant Director and Procurement Adviser.

## **23. PROCUREMENT BY CONSULTANTS**

- 23.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules and the Regulations. The Authorised Officer shall ensure that the consultant's performance is monitored.
- 23.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules and the Regulations.
- 23.3 Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.
- 23.4 No Consultant shall make any decision on whether to award a contract or to whom a contract should be awarded. This decision rests with the Awarding Officer who shall sign the Tender Acceptance Form or waiver.

24 **NOMINATED AND NAMED SUB-CONTRACTORS**

- 24.1 Tenders for sub-contracts to be performed or supplies to be provided by nominated Suppliers shall be dealt with in accordance with the provisions of these Contract Rules.

**SECTION 6**

**CONTRACT MANAGEMENT AND AMENDMENTS TO CONTRACTS DURING THEIR TERM**

25 **AMENDMENTS TO CONTRACTS**

**Above Threshold Contracts**

- 25.1 An above Threshold Contract, Framework Agreement or DPS can only be changed if permitted by the Regulations. Advice must be sought from the Borough Solicitor before making any changes to an above Threshold Contract or Framework Agreement.

**Below Threshold Contracts**

- 25.2 In limited circumstances and having regard to the Regulations and advice from the Borough Solicitor, the Awarding Officer may authorise changes to be made to contracts below Threshold Contracts.

26 **CONTRACT MANAGEMENT**

- 26.1 Authorised Officers need to actively monitor and manage a Supplier's performance throughout the contract life to ensure milestones, KPIs, deliverables and outcomes are achieved. Risks and, where appropriate, business continuity shall be managed as detailed in the tender and Contract documentation. Management data needs to be published in accordance with the Government's Transparency Code.
- 26.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender, procurement documentation and the contract.



## DEFINITIONS

<b>Advertised</b>	As defined in Regulation 110 of the Public Contracts Regulations 2015. “An opportunity is advertised if the Authority does anything to put the opportunity in the public domain or bring the opportunity to the attention of economic operators generally or to any class or description of economic operators which is potentially open-ended, with a view to receiving responses from economic operators who wish to be considered for the award of the contract”
<b>Authorised Officer</b>	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
<b>Authority’s Solicitor</b>	Means the senior legal adviser for the Authority, which may provide shared service representation.
<b>Awarding Officer</b>	The officer with the delegated authority to award the contract
<b>Best Value for Money</b>	The best solution for the Authority taking into account price, quality and deliverability.
<b>Bond</b>	An insurance policy: if the Contractor does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Contractor’s failure.
<b>Budget holder</b>	The officer responsible for the budget for the relevant procurement
<b>Candidate</b>	Any person who asks or is invited to submit a Quote or Tender.
<b>Call-Off Contract</b>	Means a contract awarded to a supplier under a Framework Agreement
<b>Concession Contracts</b>	an agreement where Suppliers are given the right to exploit works or services provided for their own gain.
<b>Consultant</b>	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
<b>Contracting Authorities</b>	Bodies, which are subject to the Procurement Contract Regulations
<b>Draw down contract</b>	A contract with a single supplier where goods, services or works are requested on an ad hoc basis

<b>Dynamic Purchasing System (DPS)</b>	A DPS is a procedure available to purchase commonly used goods, works or services. It is similar to a Framework Agreement but suppliers can join at any time
<b>Find a Tender</b>	Where notices for all above Threshold procurements opportunities and contract awards must be placed
<b>Framework Agreement</b>	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>Head of Paid Service</b>	Means the officer designated as head of paid for the Authority under section 4 of the Local Government and Housing Act 1989
<b>Invitation to Tender (ITT)</b>	Invitation to tender documents in the form required by these Contract Rules.
<b>Most Economically Advantageous Tender</b>	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> <li>• Price (i.e. the lowest price)</li> <li>• Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing)</li> <li>• Best price/quality ratio</li> </ul>
<b>Parent Company Guarantee</b>	A contract, which binds the parent of a subsidiary company as follows, if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
<b>Procurement Adviser</b>	The procurement officer for the Authority
<b>Procurement Contract Regulations (PCR15)</b>	The UK regulations implementing the public procurement directives
<b>Quote</b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>Regulation 84 Report</b>	Means the report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015

<b>Substantial</b>	<p>In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:-</p> <ul style="list-style-type: none"> <li>(a) the change renders the contract or the framework agreement materially different in character from the one initially concluded;</li> <li>(b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have— <ul style="list-style-type: none"> <li>(i) allowed for the admission of other candidates than those initially selected,</li> <li>(ii) allowed for the acceptance of a tender other than that originally accepted, or.</li> </ul> </li> <li>(iii) attracted additional participants in the procurement procedure;</li> <li>(c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;</li> <li>(d) the modification extends the scope of the contract or framework agreement considerably;</li> <li>(e) a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in Rule 28(1) (d).</li> </ul>
<b>Supplier</b>	A person or body of persons providing, or seeking to provide supplies, services or works to the Authority.
<b>Tender</b>	A Candidate's proposal submitted in response to an Invitation to Tender.
<b>Threshold</b>	Means the values set out in the Public Contract Regulations which determine if a procurement needs to be carried in accordance with the Public Contract Regulations





**COTSWOLD**  
DISTRICT COUNCIL

## **Cotswold District Council**

# **CODE OF CONDUCT FOR ELECTED MEMBERS**

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## **I. Introduction**

1. This Code of Conduct (Code) is adopted pursuant to the Authority's duty to promote and maintain high standards of conduct by Members of the Authority.

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

## **II. Scope of the Code of Conduct**

2. The Code applies to Members whenever acting in their official capacity as a Member of the Authority, including;
  - (a) when engaged in the business of the Authority including Ward business or representing the Authority externally;
  - (b) when behaving so as to give a reasonable person the impression of acting as a representative of the Authority.

This Code of Conduct does not seek to regulate what Members do in their purely private and personal lives.

3. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the procedural and other rules of the Authority and any Protocols and Policies which may be adopted from time to time by the Authority.
4. Failure to comply with the requirements within this Code of Conduct which relate to disclosable pecuniary interests and which are set out in sections V and VI and Appendix A is a criminal offence.<sup>1</sup>

## **III. General Principles of Members' Conduct**

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<sup>1</sup> Section 34 Localism Act 2011

5. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct set out below. These principles will be taken into consideration when any allegation is received of a breach of the provisions of the Code.

- *Selflessness*
- *Integrity*
- *Objectivity*
- *Accountability*
- *Openness*
- *Honesty*
- *Leadership*

#### IV. Rules of Conduct

6. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

7. Members shall observe the following rules:-

##### General Requirements

- (1) **Do** treat everyone with respect.
- (2) **Do not** bully any person.
- (3) **Do not** harass any person
- (4) **Do** promote equalities and **do not** discriminate unlawfully against any person.
  
- (5) **Do not** use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, or seek to improperly



influence a decision about any matter from which you are excluded from participating or voting as a result of the requirements of Part VI of this Code.

- (6) **Do not** do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.
- (7) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless—
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is –
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the Authority.

Before making any disclosure under (iv) above, the written advice of the Monitoring Officer must be sought and considered.

- (8) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (9) **Do** promote and support high standards of conduct when serving in your public post by leadership and example.
- (10) **Do not** behave in a manner which brings your role or the Authority into disrepute.
- (11) **Do not** use knowledge gained solely as a result of your role as a Member for the advancement of your own interests.

When using the resources of the Authority, or authorising the use of those resources by others:

- (12) **Do** act in accordance with the Authority's requirements including the requirements of the Authority's ICT Policy.

- (13) **Do** ensure that such resources are not used for political purposes (including party political purposes) unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or to the office to which you have been elected or appointed.
- (14) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

When making decisions on behalf of, or as part of, the Authority:

- (15) **Do** ensure that decisions are made on merit, particularly when making public appointments, awarding contracts, or recommending individuals for rewards or benefits.
- (16) **Do** have regard to advice provided to you by the Authority's Officers, particularly that provided by the Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.
- (17) **Do** be as open as possible about your own decisions and actions and those of the Authority and be prepared to give reasons for those decisions and actions.
- (18) **Do** ensure that you are accountable for your decisions and co-operate fully with whatever scrutiny is appropriate to your office.

## V. Registration of Interests

8. Members shall observe the following rules when registering their interests.
- (1) **Do**, within 28 days of taking office as a Member (or Co-opted Member), notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other registrable interest as defined in Appendix B.
  - (2) **Do**, within 28 days of the date of a disclosure referred to in Paragraph 9(2) of this Code, notify the Monitoring Officer of the interest.
  - (3) **Do** notify the Monitoring Officer of any new interest (disclosable pecuniary or other registrable interest) or change to any registered interest within 28 days of the date of that change.
  - (4) **Do** approach the Monitoring Officer if you feel that your interest should be treated as sensitive because its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation.

## VI. Declaration of Interests and Restrictions on Participation

Members must observe the following rules:-

### 9. Disclosable Pecuniary Interests

Where a matter, in which you have an interest as specified in Appendix A (disclosable pecuniary interests), arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** disclose the interest to the meeting. If the Monitoring Officer considers it a sensitive interest, you must declare that you have an interest but do not need to disclose the nature of the interest.

- (2) **Do** ensure that, if your interest is not entered in the Authority's Register, you disclose the interest to the meeting as required in 9(1) above and that you notify the Monitoring Officer of the interest within 28 days in accordance with Paragraph 8(2) of this Code.
- (3) **Do** withdraw from the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting unless a dispensation has been granted.
- (4) **Do not**, as a member of the Authority's executive, exercise any executive functions in respect of any matter in which you have a disclosable pecuniary interest (Appendix A). You should notify the Monitoring Officer of the interest and take no steps or further steps in the matter.

10. Other Interests (Other Registrable Interests Appendix B and Non -registrable Interests)

Where a matter, in which

either you have an interest as specified in Appendix B (other registrable interests),

or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate,

arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** ensure that you disclose the interest to the meeting. If the Monitoring Officer considers it a sensitive interest, you must declare that you have an interest but do not need to disclose the nature of the interest.
- (2) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if,
  - (a) it affects the financial position of an interest specified in Appendix B (other registrable interests)
  - (b) it affects your financial position or well-being or that of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate  
or
  - (c) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described in (a) and (b) above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

The rules set out in Paragraph 10(2) above do not have the effect of precluding a Member from attending a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member must, after making their submission, withdraw immediately from the meeting.

- (3) **Do not**, as a member of the Authority's executive, exercise any executive functions in respect of any matter in which you have an interest as described in 10(2) above. You should notify the Monitoring Officer of the interest and take no steps or further steps in the matter.

## VII. Duties in respect of the Code of Conduct

### 11. Members shall observe the following:-

- (1) **Do** undertake training on the Code of Conduct as required by the Authority.
- (2) **Do** co-operate, at all stages, with any investigation into your conduct which may be carried out in accordance with the arrangements for the investigation and determination of complaints which have been put in place by the Authority.
- (3) **Do not** seek to intimidate, or attempt to intimidate, any person who is, or is likely to be, a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a Member has failed to comply with his or her Council's Code of Conduct.
- (4) **Do** comply with any sanction imposed on you following a finding that you have failed to comply with the Code of Conduct.

## VIII. Dispensations

12. Where a Member has a disclosable pecuniary interest as described in this Code, and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in Paragraph 10 of this Code, the Member may apply to the Monitoring Officer for a dispensation.
13. A Member may be granted a dispensation to participate in a discussion and vote on a matter at a meeting even if the Member has a disclosable pecuniary interest

as described in this Code, and set out in Appendix A, or has an other registrable interest (Appendix B) or non-registrable interest which would preclude the Member's participation in the item of business as described in Paragraph 10 of this Code.

## **IX. Gifts and Hospitality**

14. When offered gifts or hospitality in your capacity as a Member of the Authority, the following rules must be observed.

- (1) **Do not** accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or to a reasonable suspicion of influence to show favour, from persons seeking to acquire, develop or do business with the Authority or from persons who may apply to the Authority for any permission, licence or other significant advantage.
- (2) **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt. (Appendix B).
- (3) **Do** register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.

## **X. Definitions**

The following are definitions which apply for the purposes of this Code of Conduct.

1. Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient.
2. "Close associate" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts. It is someone a reasonable member of the public would think you might be prepared to

favour/disadvantage (“close association” shall be construed accordingly).

3. Harassment is conduct, on at least two occasions, that causes alarm or distress or puts people in fear of violence
4. “Meeting” is a meeting of the Council, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Authority.
5. “Member” is an elected Member or a Co-opted Member of the Authority.  
“Co-opted Member” is a person who is not a Member of the Authority but who is either a Member of any Committee or Sub-Committee of the Authority, or a Member of, and represents the Authority on, any Joint Committee or Joint Sub-Committee of the Authority, and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee.
6. “Member of your family” means:
  - Partner (spouse/civil partner/someone you live with as if a spouse or civil partner);
  - A parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner; and the partners of any of these persons;
  - A brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece; and the partners of any of these persons.
7. “Monitoring Officer” is the Monitoring Officer to the Authority.
8. “Pending notification” is an interest which has been notified to the Monitoring Officer but which has not been entered in the Authority’s Register in consequence of that notification.
9. Respect means politeness and courtesy in behaviour, speech, and in the written word.
10. “The Act” is the Localism Act 2011.



11. “The Authority” is Cotswold District Council.
12. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
13. “Well-being” means general sense of contentment and quality of life.
14. Excepted functions are functions of the Authority in respect of
  - (i) housing, where the Member is a tenant of the Authority provided that those functions do not relate particularly to the Member’s tenancy or lease;
  - (ii) an allowance, payment or indemnity given to Members;
  - (iii) any ceremonial honour given to Members; and
  - (iv) setting Council tax or a precept under the Local Government Finance Act 1992.

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## Disclosable Pecuniary Interests

The interests set out below are “Disclosable Pecuniary Interests” in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with Paragraphs 8(1)-(3) of this Code of Conduct of any interest which is an interest of **the Member (M)** or of any of the following:

- the Member’s spouse or civil partner;
- a person with whom the Member is living as husband and wife; or
- a person with whom the Member is living as if they were civil partners;

and the Member is aware that that other person has the interest.

Subject	Disclosable Pecuniary Interest
Employment, Office, Trade, Profession or Vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate Tenancies	Any tenancy where (to M’s knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and (b) either –  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- (a) “the Act” means the Localism Act 2011;
- (b) “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- (c) “director” includes a member of the committee of management of an industrial and provident society;
- (d) “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- (e) “M” means a member of a relevant authority;
- (f) “member” includes a co-opted member;
- (g) “relevant authority” means the authority of which M is a member;
- (h) “relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
- (i) “relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

- (j) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

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## Other Registrable Interests

The interests set out below are “other registrable interests” which must be notified to the Monitoring Officer in accordance with Paragraphs 8(1), 8(2) and 8(4) of this Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:-

Subject	Other Interest
Management or Control	Any body of which the Member is in a position of general control or management (including where you have been appointed or nominated by the Authority.)
Public/Charitable and Other External Bodies	Any body – (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or Trade Union).  of which the Member of the Authority is a member or in a position of general control or management.
Employer	Any person or body who employs, or has appointed, the Member.
Gifts and Hospitality	The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more.

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# Employee Code of Conduct

## Code of Conduct Policy

### I. Introduction

#### I.1 Why you must read our Code of Conduct

Cotswold District Council expects every employee to behave in a highly professional manner. That's why you need to read and understand the Code of Conduct as it sets out the standards, we expect from you while you are at work.

#### I.2 What is the Code of Conduct?

The Code of Conduct is designed to provide guidance about what is expected from you in your daily work and in your dealings with elected members, colleagues, and the public.

As an employee of the Council you must be familiar with the Code of Conduct. This document forms part of your contract of employment and you are required to comply with its contents. Failure to do so may result in disciplinary action, up to and including dismissal.

For this reason, it is important that you read the whole of this document and ask your manager or Human Resources (HR) for clarification if there is anything in it that you don't understand and needs explaining.

Once you have signed and returned the acceptance section, it will be assumed that you understand its contents, agree to comply with your contract of employment, and all the rules and policies, etc that it refers to.

#### I.3 Who does it apply to?

The Code applies to all employees' and anyone acting as an employee of the Council (to clarify - the use of the word 'employee' within this code includes permanent and temporary employees, casual workers, and agency staff).

Inevitably, some of the issues covered will affect some employees more than others. Although the Code does not directly apply to contractors, consultants or volunteers, the Council's continued association with these individuals and/or their organisations requires them to observe and comply with the Code. However, in some instances, compliance may be a condition of the contract between a third party and the Council, in which case their compliance with the Code would be binding.

#### I.4 Other Policies and Procedures

The various sections of the Code of Conduct summarise key Company policies and procedures in respect of behaviour and the ways in which you are required to work. If you are in any doubt about how they apply to you, you should always refer to the full policies and procedures. These can be accessed via the Council Portal, requested from your line manager or through the Council's HR team at [HR@publicagroup.uk](mailto:HR@publicagroup.uk).

**Acceptance Form**

Once you have read and understood this Code of Conduct, please complete the form below and return this to [HR@publicagroup.uk](mailto:HR@publicagroup.uk).

Please remember it is important that you read the whole of this document and ask your manager or HR for clarification if there is anything in it that you don't understand and needs explaining. Once you have signed and returned the acceptance section, it will be assumed that you understand its contents and agree to comply with your contract of employment and all the rules and policies, etc that it refers to.

I have read and understood the Cotswold District Council Code of Conduct.

Name

.....

Signature

.....

Job Title

.....

Date

Your Manager:

.....

.....

## **2. Standards of Behaviour**

The sections below, together with the seven principles which are set out in Section 28 of the Localism Act 2011, and which were originally set out by the Nolan Committee on Standards in Public Life contained in Annex A, set out the framework within which all employees must operate. Failure to do so may result in disciplinary action, including and up to dismissal.

### **2.1 Workplace behaviour and personal conduct**

In summary, you are required to:

- Act with dignity and treat all others, including colleagues, elected members and members of the public with dignity and respect.
- Ensure your behaviour and performance meets workplace standards at any time that you are representing the council or are likely to be identified or associated with your role as a public official (whether or not you are 'on duty' at the time).
- Ensure you are familiar with and follow the council's rules, policies and procedures
- Be committed to delivering quality services to service users
- Work in accordance with the terms and conditions of your contract of employment and job description

### **2.2 Grievances**

The Council encourages a culture in which you can raise any workplace problems, complaints, or concerns in a supportive framework. If you have a concern or grievance, you can use the Grievance Policy.

Most issues can be resolved informally, however, if an informal approach does not resolve matters, or is not appropriate, you may choose to raise a formal grievance.

Any employee who submits a grievance in good faith will not suffer any adverse consequences as a result of submitting the grievance. Should your allegation be found to be vexatious or a complaint which is falsely made; that is, it is not made in good faith or based on evidence, this may result in disciplinary action.

### **2.3 Reporting Absence**

If you are unable to attend work for any reason, preferably, you should notify your manager of non-attendance by telephone before you are due to start work or as soon as reasonably practicable, providing your reason for absence to enable your manager to make alternative arrangements for your work to be covered if required.

If your manager is unavailable, you should contact the next most appropriate manager.

Notification of sickness absence should preferably be via telephone, rather than text message, email, or social media. In exceptional circumstances, where the employee is unable to telephone (for example, because of hospitalisation), another person such as a friend or relative can contact the Council on their behalf.

Please refer to the Sickness Absence Policy for more information.

## **2.4 Misconduct**

The Code of Conduct guides and assists employees acting in good faith. If, in your decisions, actions or conduct, you wilfully fail to comply with the standards outlined in the Code of Conduct, you will be guilty of misconduct and are likely to fall subject to disciplinary action, up to and including dismissal.

## **2.5 Learning and Development**

As part of your employment with the Council you are obliged to participate in and complete a range of mandatory learning and development courses, including, but not limited to those found on your iHasco homepage.

You may also be required to participate in learning and development to develop your skills and knowledge to perform your job and improve the service we deliver as a Council and the communities we serve.

You are required to participate in an annual appraisal and performance review and reasonably engage in any plans for improving your work performance. If you are a manager, you are required to complete an annual appraisal for your direct reports.

## **2.6 Alcohol and Drugs**

As an employee of the Council, you must not consume alcohol, use illicit drugs/legal highs or other illegal substances while at work and must not attend work under the influence of such substances.

There are times when you may attend a work event, such as an awards night, where alcohol is available. At these times, alcohol may be consumed with permission, however, you must remember that you continue to represent the Council.

The Council reserves the right to undertake a programme of random alcohol and drug testing.

Similarly, if you are taking legally prescribed or over-the-counter drugs, you must ensure that their use does not adversely affect your work performance and the safety of yourself and others. If you are concerned about prescription medicines, please speak to your GP and to your line manager to discuss any potential side effects.

If you are a manager, you will need to consider the options available for assisting employees who are required to take legally prescribed drugs and whose level of performance has been impaired. In these circumstances, a risk assessment should be undertaken with the assistance of the Occupational Health service.

## **2.7 Health & Safety**

All employees have a personal and legal responsibility under the Health and Safety at Work Act 1974 for themselves, colleagues and visitors to Council buildings and premises.

These responsibilities are outlined in the Health and Safety policy. In summary, your legal duties as an employee are:

- To take reasonable care for the health and safety of yourself and others who may be affected by your actions or omissions at work.

- To co-operate with employers or other persons to enable you to perform your duties or requirements under the Act.
- To work in accordance with the health and safety training that you have been provided.
- To notify the Business Partner for health and safety in the workplace of any unsafe condition, hazard, or risk that you identify.

## **2.8 Equal Employment Opportunity and Workplace Diversity**

We believe that a culture of equality, diversity and inclusion not only benefits our organisation but supports wellbeing and enables our people to work better because they can be themselves and feel that they belong.

As an employee of the Council, we expect you, and every one of our people, to take personal responsibility for observing, upholding, promoting, and applying Equality, Diversity, and Inclusion. Our culture is made in the day-to-day working interactions between us, so creating the right environment is a responsibility that we all share.

Any dealings that you have with colleagues, or third parties must be free from any form of discrimination, harassment, victimisation, or bullying.

If any of our people are found to have committed, authorised, or condoned an act of discrimination, harassment, victimisation or bullying, we will take action against them including (for those to whom it applies) under our Disciplinary Procedure.

## **2.9 Employee Appearance**

Your dress style must reflect appropriate workplace health, safety, and security considerations applicable to your job and work environment. If you are attending a meeting with external parties or presenting a report at a Cabinet or Council meeting that is open to the public or broadcast on the internet, you should wear smart workplace clothing and avoid wearing attire that might be considered by an average member of the public to be too casual or too informal for the role you are fulfilling.

If you are required to wear Personal Protective Equipment (PPE) as part of your job role, you must ensure that this is worn and in compliance with the relevant Risk Assessment / Safe System of Work.

If you are required to wear a uniform as part of your role, you must ensure that this is worn during working hours. If you are wearing this uniform outside of the workplace, you should remember that during this time, you remain recognisable as an employee of the Council and therefore, you must ensure you comply with this Code of Conduct.

## **2.10 Driving on behalf of the Council**

While driving Council or your own vehicle for work purposes, employees must comply with traffic legislation, be conscious of road safety and demonstrate safe driving and other good road safety habits.

You must hold a current driver's license for the category of the vehicle you are driving and must upload this into business world on an annual basis. You must also have business cover on your insurance.

You must notify your line manager or HR if your driving licence has been suspended or cancelled, or has limitations placed upon it, including any penalty points.

The following actions while driving on Council business will be viewed as serious breaches of conduct and may lead to disciplinary action up to and including dismissal:

- Drinking or being under the influence of drugs while driving.
- Driving while disqualified or not correctly licensed.
- Reckless or dangerous driving causing death or injury.
- Failing to stop after a collision.
- Acquiring penalty points leading to suspension of licence.
- Any actions that warrant the suspension of a licence.
- Bringing the Council into disrepute.

Please note that this is not an exhaustive list and will depend on whether you are required to drive for business purposes.

## **2.11 Social and Environmental Protection**

The Council has declared a climate emergency and is committed to doing our bit to address and help tackle the challenge of our generation: not only around climate but also the less well publicised biodiversity crises affecting our planet.

We must consider the environmental impact of the services we deliver and consider ways in which we can minimise these impacts such as through reducing consumption, waste minimisation, energy efficiency, technology and through procurement which takes into account the environmental impact of products and services and supports the purchase of sustainable products.

## **3. Protecting the Council and our Employees**

### **3.1 Conflicts of interest**

A conflict of interest is any activity that is inconsistent with, or opposed to, our Council best interests or that gives the appearance of in propriety or divided loyalty. You must not place yourself in a situation within which you could derive or be perceived to derive personal benefit from actions of decisions made in your official capacity as an employee. This also applies to any perceived or actual benefit.

Some examples of conflicts (or perceived conflicts) between personal interests and our public duties as a Council are shown below.

- Employees who have access to computer databases of customers/updating their own personal records, or those of close relatives.
- Liaising with a supplier who employs one of your close relatives.
- Being contracted to provide services to the Council outside of your paid employment.
- Generating work which involves travel to provide an opportunity to visit friends.
- Involvement with an interview panel when a relationship exists with one of the applicants.
- Involvement in a procurement process where a relationship exists with one of the suppliers.
- If you or a close family member or business partner submit an application for Planning Permission, Listed Building Consent or similar.

If you are unsure about a personal conflict, talk to your manager or a member of the HR team in the first instance.

Additionally, you must not use your position to obtain favourable treatment for any individual with whom you have a significant relationship, this applies to both friends and family as well as any individual you may have a contractual relationship with – such as a landlord or employee. If any employee finds themselves in a position where they are dealing with a business matter which involves or is likely to involve a family member or other persons with this, they have a significant relationship, they must take immediate advice from HR, Procurement or their Line Manager. For the avoidance of doubt nothing in the paragraph is intended to affect the refer a friend scheme.

If you believe you have a potential conflict involving a family member, or other individual, you also have an obligation to declare it as part of the annual declaration process. Completion of the annual declaration is mandatory for all employees.

### **3.2 Dealing with a potential conflict of interest**

Line Manager(s) together with HR are required to review any conflicts of interest that are declared and to determine whether any actions are required to mitigate the conflict. There may be occasions where the conflict is profound and acute. In such cases it may be necessary to consider a range of possible actions which may include, but not limited to:

- Deciding that no action is needed.
- Restricting the employee(s) involvement in discussions and excluding them from decision making.
- Removing the employee(s) from the whole decision-making process.
- Removing the employee(s) responsibility for an area of work.
- Removing the employee(s) from their role altogether if the conflict is so significant that they are unable to operate effectively in the role.

### **3.3 Confidential Information**

As an employee of the Council, you may obtain, have access to or be responsible for Council information that has not been made public and is still confidential. You must never disclose information given in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it or unless you are required to by law.

You must not prevent another person from gaining access to information to which that person is entitled by law. You must not disclose confidential information for your own personal use or for use by anyone else known to you, or to the disadvantage or the discredit of the Council or anyone else.

You must always observe the provisions of the Data Protection Act 2018, the Freedom of Information Act 2000, and the Council procedures for the release of personal information held about other employees or members of the public. Breach of confidentiality may be considered a disciplinary offence, which could result in dismissal.

When you leave your employment with the Council, you must still respect the confidentiality of official information that may have been available to you in the course of your duties and not use this information for private, commercial or political gain.

### **3.4 Data Protection**

All employees, whether permanent or temporary, have a responsibility for the protection of data and are required to adhere to the Data Protection Policy, along with any associated procedures and to attend any associated training.

All information and data must be handled sensitively and processed in accordance with the Council Data Protection Policy. In particular, no employee shall divulge personal information regarding any employee, person or contractor, having dealings with the Council and information relating to tenders or other such issues.

All Employees must:

- Understand the main concepts within the UK GDPR requirements, these include the six principles, 'Lawful basis for processing' and 'Right of an Individual.
- Identify and report any risks to the security of personal data processed by the Council to their line manager or the Information Asset Owner.
- Assist their customers/service users to understand their rights and the Council responsibility regarding UK GDPR.
- Identify and report any subject access requests to the Data Protection Officer (DPO) so that they can be processed in accordance with the UK GDPR requirements.

Under the Data Protection Legislation, individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information. If you receive a request to see personal data, please refer to the Council Data Protection Officer for further information and contact [data.protection@publicagroup.uk](mailto:data.protection@publicagroup.uk).

If you become aware of a data protection breach, this must be reported to the Data Protection Officer (DPO) via email at [data.protection@publicagroup.uk](mailto:data.protection@publicagroup.uk) or call 01993 861194.

This should be done at the earliest possible stage as the Council has a duty to report any personal data breaches to the Information Commissioners Office (ICO) with 72 hours of the breach.

If you are able to rectify the breach, this should be done immediately, however, the breach must still be reported.

### **3.5 Outside Employment and Voluntary Work**

You must obtain permission from your manager before taking any other paid or unpaid employment or operate an outside business. Even with permission, you must not:

- Participate in an outside employment activity that could have an adverse effect on your ability to perform your duties at the Council or conflict with our work.
- Ensure that any additional employment does not conflict with the interests of the Council or affect your ability and credibility to do your job.
- Use any of our assets, including your ICT equipment, for your other job/business, unless that job or business is via a contract the Council.
- Use your position to solicit work for you outside employer/business or to obtain favoured treatment.
- Use our confidential information to benefit your other employer, outside business or invention.



Voluntary work must be declared and must not conflict with your role or your ability and capacity to fulfil your contractual obligations to the Council.

### **3.6 Declaring conflicts of Interest**

To ensure that the Council is aware of any potential conflicts of interests, it conducts an annual employee declaration process, which requires employees to update their information and disclose any related party transactions. This is a mandatory requirement, and you are required to complete this form promptly when requested. You also have the ongoing duty to keep this information up to date and any changes throughout the year must be notified to the Business Manager for Governance.

### **3.7 Workplace Relationships and Management of Relatives**

Personal and family relationships in the workplace may present an actual or perceived conflict of interest, particularly when one individual in the relationship is in a position to make or influence employment decisions regarding the other, such as a relationship between a manager and a direct line report.

If you are in a personal relationship with a Colleague, Line Manager, Councillor, Contractor, including Publica, we ask that this is declared through your annual employee declaration.

If you think the personal relationship in the workplace may create a conflict of interest or be perceived to create a conflict of interest, then you should raise this with your line manager initially with the aim of mitigating any potential conflict in a sensible and proportionate way. The Line Manager should seek guidance from HR where required. If you do not feel comfortable raising this with your line manager, this can be reported directly to HR or to an alternative Manager.

Where a former relationship causes an adverse impact or a conflict occurs, this should also be considered and declared or managed in the same way. If the individuals involved in the relationship do not believe that there is any conflict of interest, then no further action is required.

If there is any doubt, then advice could be sought from a line manager / HR.

Conflicts can occur in the following cases:

- line-management activity;
- recruitment, promotion or selection processes, including tutoring, mentoring and coaching;
- decisions relating to disciplinary, Unsatisfactory Performance Procedures (UPP) or grievance procedures;
- decisions relating to pay or remuneration, including overtime;
- decisions regarding access to training or Continuing Professional Development (CPD);
- decisions (eg, deployment), that may lead to perceptions of unfairness by those involved in the relationship or by others.

If you find yourself in a situation where you may be in a position to influence an outcome relating to someone you have a personal relationship with, it is your responsibility to highlight this, failure to do so may result in disciplinary action being taken against you.

We expect you to act professionally when working with a relative or with someone with whom you are in a personal relationship with and not allow your relationship to disrupt the workplace or

interfere with your work or judgement. You should seek advice from your manager or HR if there are any problems.

It is your responsibility to ensure you notify HR should your personal situation change, failure to do so may result in disciplinary action being taken against you.

### **3.8 Gifts Hospitality & Sponsorship**

The Local Govt Act 1972 states that an employee shall not “under colour of his office or employment accept any fee or reward other than their proper remuneration (i.e. salary/ pay)”

Therefore, you must not accept any fee or reward for work done undertaken for the Council other than your pay and allowances as set out in your contract of employment without seeking prior approval.

If you have been invited by an outside organisation to attend a hospitality event, including but not limited to, breakfast, lunch, dinner, sporting event, seminar/conference, social or cultural event, and you wish to accept the offer, your acceptance must be authorised in advance by a manager.

You must not accept hospitality from any organisation that is likely to result in a conflict of interest in respect of decisions made by the Councils, and other officers. This also applies where the invitation is considered to be personal but arises from a link with an organisation/contractor as a consequence of your role within the Council.

Any employee that is authorised to accept hospitality must remember that they are representing the Council and that all terms and conditions of service still apply.

It is an offence under the Bribery Act 2010 to accept gifts loans, fees, or rewards as an inducement to act in a certain way in your official capacity.

You must not accept payment from a third party that is known to be or suspected to be, offered with the expectation that it will obtain a business advantage or where such a business advantage will be provided in return by the Council.

You must be particularly sensitive to the timings of offers of gifts or hospitality in relation to decisions that the Council may have taken, or be about to take, which affect those providing the gift or hospitality.

A one-off gift of a low nominal value (less than £25) will generally be authorised for acceptance provided it does not compromise your position, or that of the Council. With regards to high value or regular gifts/offers of hospitality, it must be demonstrated there is a genuine business reason and/or need to accept any such offer.

If an external organisation wished, or is sought to sponsor a Council activity, the rules concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Where the Council wishes to sponsor an event, or service, employees or members of an employee’s family must not benefit until full disclosure of interest has been made and approved in advance by the CEO / Head of Paid Services.

All sponsorship and offers of hospitality, regardless of whether it is accepted or not must be recorded using the Gifts, Hospitality and Sponsorship Approval Form. Failure to do this may lead to disciplinary action up to and including dismissal.

Please refer to the Employee Gifts, Hospitality and Sponsorship Procedure and Process.

### **3.9 Bribery, Corruption and Fraud**

The Council will not tolerate any instances of bribery, corruption, fraud, or theft. This includes abuse of position and will result in disciplinary action and may also result in criminal proceedings against you. Employees must ensure they are familiar with the Counter Fraud and Anti-Corruption Policy.

Contract and procurement fraud, both internal and external, is not acceptable under any circumstance. You must act with integrity and honesty in all your business activities, and you must be particularly vigilant if your role involves any of the following:

- Raising requisitions for goods and services;
- Authorising the procurement of goods and services;
- Writing of specifications or reviewing tenders for the supply of goods and services;
- Contract management or monitoring or;
- Amending or creating suppliers or customers in Business World.

### **3.10 Working with Contractors**

If you have a relationship or a business, of private nature with external contractors, or potential contractors, this must be disclosed to the appropriate manager and recorded on your annual declaration form. Refer to section 5 of this document.

Orders and contracts must be awarded on merit and by fair competition against other tenders. No special favours should be shown to business operated or controlled by, for example, friends, partners, or relatives in the tendering process. You must comply with the Contract Procedure Rules of the Council at all times.

### **3.11 Public Comment on Council Policy and Administration**

It is important that enquiries from the news media are properly handled in order to maintain effective public relations and to protect the Council's reputation. As such, Employees must not deal directly with the press or the media unless required to do so in the course of their work or they have been expressly authorised by the Communications and Marketing Team. Approaches from all press, radio, TV stations or specialist press for information or comment on issues affecting the work of the Council must be referred to the Communications and Marketing Team, who will discuss the nature of the story and then contact the appropriate officer or member asking them to respond. Any article, publication, or interview given on aspects of Council policy or activity must be properly authorised.

Any invitations to undertake lectures or presentations at conferences or seminars in the public domain, or any literature being produced for publication concerning any Council matter must be authorised by the Communications and Marketing Team.

It is important that no financial information is released by any employee. Please refer any such requests to the S151.

Employees should not publicly express personal opinions on Council Policy, activity or administrations in a way that would bring the Council into disrepute.

### **3.12 Use of Social Media Accounts**

You should be aware that social networking websites are public forums, and you should not assume that your entries will remain private. When communicating via social media you must not conduct yourself in a way that brings the Council or any employee or councillor into disrepute or disclose information that is confidential to the Council. If you do, even if your social media is a personal site, disciplinary action can still be taken, up to and including dismissal.

It is advised that unless required, you remove any connection to the Council from your personal social media sites and not state who you work for. It is understood that some sites, such as LinkedIn require employment details as the site is about increasing business connections, however, sites such as Facebook, Instagram and other similar sites should ideally not include references to your employment. This is both for employee protection and to potential disciplinary action.

You must not use your personal social media sites when conducting work for the Councils.

When using any social media platform, you must follow the guidelines set out in Annex B.

### **3.13 Personal Investments**

Council employees must consider any personal investments they have which give rise to a conflict of interest if the Company in which the investment is held is transacting business with the Council. If a real or apparent conflict arises you must disclose the conflict to your manager. Your manager will help determine whether a conflict exists and, if appropriate, the best approach to eliminate conflict. Your manager may advise you to update your Employee Declaration Form.

### **3.14 Using the Council Money (Public Purse)**

As public servants, you must ensure that public funds are spent in a responsible and lawful manner. You must strive to ensure value for money is realised and avoid legal challenge to the Council.

If you have responsibility for budgets and/or purchasing, you must ensure that you understand and comply with the relevant Standing Orders and Financial regulations.

As an employee of the Council you must adhere to the Procurement Policy, procedures and controls.

### **3.15 Side Deals or Side Letters**

All the terms and conditions of agreements entered into by the Council, must be formally documented. Contract terms and conditions define the key attributes of the Council's rights, obligations, and liabilities and can also dictate the accounting treatment given to a transaction. Making business commitments outside the formal contracting process, through side deals, side letters, or otherwise is unacceptable. You must not make any oral or written commitments that create new agreements or modify existing agreements without obtaining approval through the formal contracting process.

### **3.16 Political Activities**

You must ensure that your right to engage in political or professional activities does not result in an actual or perceived conflict of interest with your work and you should ensure that you are able, and be seen to be able, to remain unbiased in the performance of those duties. You must not allow your own personal or political opinions to interfere with your work and you must not use the Council

assets (including work time, premises, equipment, or funds) to personally support candidates to campaigns.

Some posts are politically restricted. If you are employed in one of these posts, you must not undertake political activities either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for, or holding, political office and these restrictions are incorporated as terms in an employee's contract of employment under the legislation.

Employees who are politically restricted are:

- Barred from standing for office as any of the following:
  - Local Councillors (including Town/Parish Councillors).
  - Members of Parliament.
  - Members of the Welsh Assembly.
  - Members of the Scottish Parliament.
- Restricted from canvassing on behalf of a political party or a person who is or seeks to be a candidate.
- Not permitted to speak to the public at large or publish any written or artistic work that could give the impression that they are advocating support for a political party.
- Particular care should be taken with social media posts.

### **3.17 Working with Members**

You must treat all political groups and individual Councillors equally, fairly and remain politically neutral at all times. You must provide professional, impartial, and effective support, to enable Councillors to fulfil their role, in and on behalf of, the Council.

You must not seek to influence or lobby a Councillor with regard to personal issues.

It is important that there should be good working relationships between senior officers and Leaders/Members of the Cabinet and Chairs of Committees. However, such relationships must not be allowed to become so close as to cast doubt either on an officer's ability to deal impartially with other Councillors, or the Councillor's ability to deal impartially with other employees.

### **3.18 Trade Union Representatives**

If you are a workplace representative of a trade union or a professional association, you must ensure that when you make a public comment, it is clear that any such comment is made on behalf of the union or association you represent and not the Council. Provisions relating to time to undertake official union roles are outlined in the facilities agreement.

### **3.19 Closed Organisation**

If you are a member of any organisation that is not open to the public and in respect of which secrecy about rules or membership or conduct exists you must disclose this on the Annual Employee Declaration.

### **3.20 Community Activities and Public Positions**

The Council complies with all relevant laws and regulations and operates in ways that benefits the communities in which it serves. We encourage you to uphold this commitment to the community and your activities. If you hold an elected or appointed public office while employed at the Council

you must disclose it as part of the Employee Declaration process. It is important that you do not get involved in any decisions that might create or appear to create a conflict of interest.

### **3.21 Criminal Charges, Convictions and Misconduct**

You must conduct yourself in a professional manner at all times at work. Serious misconduct and/or criminal offences committed during or outside of working hours which bring you, or the Council into disrepute may be the subject of disciplinary action which could lead to dismissal. The Council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitations of Offenders Act applies, and the rehabilitation period has expired. In some circumstances, Disclosure and Barring Service (DBS) checks are conducted on successful applicants for certain positions in the Council.

Once you are an employee, you must notify the Council in writing if you are charged with any criminal offence, or if you are convicted of any offence. If you are charged with an offence, the notice must be given immediately after you are charged (i.e. the next working day). If you are convicted of an offence, the notification must be given immediately after you are convicted (i.e. the next working day). It should be noted that the term “conviction” includes a finding of guilt regardless of whether a conviction is recorded. Failure to notify the Council in either case will constitute grounds for disciplinary action.

### **3.22 Respecting the Council**

We expect you to spend all of your contracted hours working for the Council. Computers and software (e.g. email, internet) may only be used in line with our guidelines. The use of Council property or facilities (stationery, photocopiers, etc.) for personal reasons is not acceptable. If you want to publish any material which you have written in connection with your role you must first gain the consent of your manager. If, in the course of your work, you create copyright work (for example a procedure manual or a software programme) a patented invention, or design capable of registration, this will become the property of the Council and you may be required to cooperate in the Registration Formalities.

### **3.23 Security**

You must visibly display your Identification Badge at all times while you are on any Council premises. All employees are required to challenge anyone in an employee and/or secure area of the Council premises without either an Employee ID or Visitor’s Badge.

You must not allow any individual not displaying an ID Badge to follow (“tailgate”) you into any secure area of the Council premises.

If you come to work without your badge, you must report to the Council reception point to collect and use a temporary replacement. If you lose your ID Badge, you must report it immediately to your manager. You will be required to pay for a replacement.

If you have a visitor coming to see you at the Council premises, you must ensure that they sign in/out at reception and are issued with a visitor badge. You must ensure that they are escorted around the building whilst onsite.

### **3.24 Use of Information Technology**

Employees must use any ICT equipment or facilities provided by the Council for use in the course of their employment in a proper and responsible manner. The Council is entitled to expect at least the same standard of care of its property as employees give to their own property.

Employees must adhere to the Council ICT Acceptable Use Policy and associated guides at all times. This Policy outlines the obligations on the part of Council employees and other contractors regarding the acceptable use of Council owned ICT devices and the steps the Council may take to ensure security compliance.

The content of the Council IT resources and communications systems are the property of the Council. Therefore, staff should have no expectation of privacy in any message, files, data, document, telephone conversation, social media post conversation or message, or any other kind of information or communications transmitted to, received, or printed from, stored, or recorded on the Council IT and communications systems.

The Council reserves the right to monitor, intercept and review, without further notice, an employees use of the IT resources and communications systems, including but not limited to emails, social media postings and activities, to ensure that its rules are being complied with and for legitimate business purposes.

Failure to follow the ICT Acceptable Use Policy may lead to disciplinary action under the Council Disciplinary Policy.

### **3.25 Internal Audit, Counter Fraud and Risk and Opportunity Management**

The Council is subject to internal audit services and counter fraud inspections and investigations. All employees have a responsibility to contribute to this work, and where actions have been agreed, and you are responsible for progressing that action, it is your responsibility to ensure it is addressed within the agreed timescale.

The Council has a risk and opportunity management framework. All employees have a role to play in the identification and assessment of risk and the implementation of controls, where applicable.

### **3.26 Reporting Breaches of the Code and Whistleblowing**

If you are concerned about any practice you see in the Council which you think conflicts with the Code of Conduct, you should obtain advice from your Manager, Monitoring Officer or Trade Union representative, or any other appropriate person as identified in the Council policies referred to in the Code of Conduct.

The Public Interests Disclosure Act 1998 and Council Whistleblowing Policy can provide safeguards for employees and public officials who disclose unlawful and improper conduct including breaches of this Code.

Public Interests Disclosure / Whistleblowing concerns should be raised with a member of the HR Team, Internal Audit or the Counter Fraud and Enforcement Unit. Please refer to the Whistleblowing Policy for other ways to report concerns.

Any suspicion of money laundering must be reported in the first instance to the S151. Please refer to the Council Proceeds of Crime and Money Laundering Policy for specific information.

### **3.27 The role of a Manager at the Council**

As a manager, you have a responsibility to set a good example for employees through your own behaviour and attitudes, especially in relation to upholding the ethical principles, obligations, behaviours, and the standards as set in this Code of Conduct.

You should ensure that you understand your responsibilities under relevant financial, legal procurement, technological, human resources, and other relevant policies and procedures, maintaining the principles of accountability, continuous improvement, fairness, flexibility, and equity in the workplace.

You should ensure that employees understand performance standards expected from them and objectively assess their performance against these standards. This should be achieved through the Council appraisal process and regular one-to-one's. As a Manager, you must ensure that your employee received an annual appraisal, which is reviewed as part of your one-to-one meetings. If an employee is not meeting the expected performance standards, you should refer to the Performance Improvement Procedure.

You must ensure that relevant legislation, delegations, and Council policies and procedures are accessible to all employees in your business area, and that both yourself, and they understand their obligations under this Code of Conduct.

You should ensure that all employees who report to you are familiar with the requirements and objectives of their job, and have access to the information, training, supervision, feedback, and work conditions needed to achieve them.

You are required to act promptly, thoroughly, and fairly when responding to, or investigating grievances and reports of breaches of the Code of Conduct. To avoid any accusation of bias, you must not be involved in the appointment of any applicant if you are a relative or friend to them.

Similarly, you must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner or friend. If you are in any doubt, you should discuss the matter with your manager.



## Nolan Principles

### **Selflessness**

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

### **Integrity**

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

### **Objectivity**

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

### **Accountability**

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

### **Openness**

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

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

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

## Social Media Guidelines

There is often a fine line between the use of social media as a work tool and your personal use as an individual outside of your work role. Sometimes your opinions may conflict so you must take care to separate the two when that happens.

The Council recognises that many employees make use of social media in a personal capacity. While you may not be acting on our behalf, you must be aware your actions can damage the Council if you're recognised as being one of our employees.

If you use social networks or blogs for personal use and have indicated that you work at the Council, you should consider using a disclaimer that states that opinions on this site are your own. An example: 'The views expressed are my own and don't reflect the views of my employer.'

When posting on social media you should:

1. Always be mindful of the impact your contribution might make to our reputation.
2. Remember you are personally responsible for all content you publish.
3. Not upload, post or forward any content that is abusive towards your colleagues, members of the public or the Council as an organisation. It could result in disciplinary action if you do. This includes any content that is abusive, obscene, discretionary, harassing, derogatory or defamatory.
4. Never disclose commercially sensitive, anti-competitive, private, or confidential information. Also, do not breach copyright, for example by using someone else's images or written content without permission.
5. Be aware that what you publish will be around for a long time so consider the content carefully and also be sensible about disclosing sensitive details.
6. Remember that social media networks, blogs and other types of online content sometimes generate press and media attention or legal questions. You must refer these enquires to the Communications team.
7. Be conscious that our reputation is made by your behaviour. Everything you publish reflects how we are perceived. Please ensure you're aware of our values and reflect these.
8. Ensure that if you identify that inaccuracies about the Council have been published in a public forum, you may politely and sensitively point out the factual inaccuracies but should refrain from entering into a debate. You should also advise the Communications team that you have identified information that is inaccurate or could damage our reputation.
9. Ensure compliance with data protection legislation – for example moving the discussion to private message (Facebook) or direct message (X formerly Twitter) when personal details need to be discussed. Alternatively, ask them to contact us another way e.g. telephone.
10. Block, hide or ban abusive users.
11. Pay particular attention during the pre-election periods, when special care needs to be taken to ensure that any content you post, share or like is not seen as promoting any political group or individual candidate.
12. Consider the privacy settings on your social media accounts if you are in a public facing role where your name may be published as part of your job. Consider limiting access to your profiles so that people cannot look up your personal accounts and information.

You must not use your personal social media sites when conducting work for the Council. Where the internet or social media is required for enforcement purposes, please refer to the Use of the Internet and social media for Investigations and Enforcement Policy.

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## Part E3: Whistleblowing Policy

A copy of the latest Whistleblowing Policy can be found on the Council website:  
<https://www.cotswold.gov.uk/about-the-council/council-data-and-access-to-information/report-internal-fraud-and-corruption/>

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## **Part E4: Member/Officer Protocol**

### **1. Introduction**

- (1) The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another.
- (2) Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped that the approach which it adopts will serve as a guide to dealing with other issues.
- (3) This protocol also reflects the Codes of Conduct which apply to Members and Officers. Those codes seek to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- (4) If any Member is unsure about any matter the subject of this Protocol, they should contact the Leader of their party and the Head of Paid Service and/or Monitoring Officer for appropriate advice and assistance. If any Officer is unsure about any matter, they should contact the Head of Paid Service and/or the Monitoring Officer. If there is any disagreement over the interpretation of this Protocol, then the opinion of the Monitoring Officer will prevail.

### **2. Roles of Councillors and Officers**

- (1) Councillors and Officers both serve the public. They depend on one another, but their responsibilities are distinct. Councillors are responsible to the electorate and are responsible for setting policy. Officers are responsible to the Council: their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, its Committees, the Cabinet and individual Cabinet Members.
- (2) It is important that Members are clear about their roles and the roles of Officers and do not get involved in internal office management and employment issues relating to individual Officers other than as provided for in the Officer Employment Procedure Rules set out in Part 4 of the Council's Constitution.
- (3) Mutual trust and respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
- (4) Members must, however, respect the impartiality, integrity and political neutrality of all the Council's Officers. They should not pressurise any Officer to change their professional opinion on any matter of Council business. Similarly, Officers must respect the role of Members as elected representatives. It is important that any dealings between Members and Officers should observe

proper standards of courtesy and that neither party should seek to take unfair advantage of their position.

- (5) In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that whilst Officers have an overriding duty to the Council as a whole, this is expressed to their line managers and the Head of Paid Service and not to any individual Members. The only Members who have authority to give direct instructions to Officers are Cabinet Members who can instruct the Head of Paid Service, the other Statutory Officers and Lead Managers with regard to the Cabinet Member's particular areas of Cabinet responsibility.
- (6) Whilst Lead Managers will do all that they reasonably can to comply with instructions from Cabinet Members, there may be occasions where the Lead Manager concerned feels unable to comply, say because of pressure of work and competing priorities. In the event that an issue cannot be resolved by a Cabinet Member and the Lead Manager, then it may be referred to the Leader of the Council and the Head of Paid Service for resolution. Again, if a Lead Manager feels unable to comply with an instruction from a Cabinet Member, it may be so referred. A situation which remains unresolved following discussion between the Leader and the Chief Executive shall be determined by a Panel comprising one Member of the Audit Committee and two Independent Persons, acting in consultation with the Chair of the Council. The Panel shall be chaired by one of the Independent Persons. This method of determination shall also apply to situations where the Head of Paid Service feels unable to comply with an instruction from the Leader of the Council or another Cabinet Member.

(Note: 'Independent Persons' are individuals appointed by the Council for the purpose of being consulted by the Council's Monitoring Officer in respect of complaints alleging breaches of the Code of Conduct by Members. As such, Independent Persons are not Cotswold District Councillors or Council Officers).

### **3. Members' Access to Information and Council Documents**

- (1) The Council believes in open government. Information will generally be freely available to all Members.
- (2) This approach has to be qualified, however, in relation to certain appropriately confidential information. Moreover, devoting a significant amount of staff resources to identify and collate information of marginal benefit cannot be justified. Members are encouraged to use the Council's Intranet to try and find information before contacting Officers.
- (3) Where, in an Officer's view, a request for information will require a significant amount of staff resources to provide the information, which they feel unable to commit, they should seek guidance from their Lead Manager so that a satisfactory solution, in consultation with the Member, can be found. In the



event of a disagreement, a decision will be made by the Head of Paid Service, in consultation with the Leader of the Council.

- (4) Members have a statutory right under the Local Government Act 1972 to inspect any Council document which contains material in relation to any business which is to be transacted at a Council, Committee or Sub-Committee meeting (other than one which contains exempt information under the relevant paragraphs of Part I of Schedule 12A of the Act (“exempt information”). This right applies irrespective of whether the Member is a Member of the Committee etc. concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.

The categories of exempt information under Schedule 12A are set out in the Access to Information Procedure Rules included in Part 4 of the Council’s Constitution.

- (5) Members also have a right under the Local Government Act 2000 which applies to Cabinet arrangements, to inspect any relevant document which is in the possession, or under the control, of the Cabinet and contains material relating to any business to be transacted at a public meeting of the Council (other than one which contains exempt information or advice provided by a political adviser or assistant). If, however, the meeting is a private one (which can include a key decision by the Cabinet or a decision taken by a Cabinet Member), any relevant document will be available for inspection after the meeting or immediately after a decision has been taken.
- (6) In addition to the above, Members of the Overview and Scrutiny Committee will be entitled to a copy of a relevant document which is in the possession or under the control of the Cabinet and contains material relating to:-
- (i) any business that has been carried out at a private or public meeting of the Council;
  - (ii) any decision that has been taken by a relevant Cabinet Member;  
or
  - (iii) any key decision that has been taken by an Officer.

This is unless the document contains exempt or confidential information, unless it is relevant to any action or decision being reviewed or scrutinised by the Overview and Scrutiny Committee, or unless the document contains advice provided by a political adviser or assistant.

- (7) Draft working documents are subject to change and will be withheld until the matter is formally reported to the Cabinet, the relevant Committee or Cabinet Member.
- (8) In addition to the statutory rights, there is a common law right of Members to access information based on the principle that any Member has a right to inspect

Council documents so far as their access to the documents is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council.

- (9) The proper exercise of this common law right depends on whether it is reasonably necessary for the Member to have the information in order to properly perform their duties. The propriety of a request for information must initially be determined by the Head of Paid Service, having consulted with the Officer who holds the document in question. In the event of a dispute, a decision on the point will be made by the Monitoring Officer, in consultation with an 'Independent Person' (see paragraph 2.6 for the definition of an Independent Person).
- (10) Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. A Member should never disclose or use confidential information for the personal advantage of him/her/them self or of anyone known to him/her/them, or to the disadvantage or discredit of the Council or anyone else.

#### **4. Breach of Confidentiality**

Any unauthorised disclosure of confidential information constitutes a breach of the Code of Conduct for Members. In this event, the matter shall be referred by the Monitoring Officer for consideration.

#### **5. Equality Issues**

The Council has statutory duties with regard to equality issues and, in accordance with the Council's Code of Conduct for Members, Members must promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech, act in a discriminatory manner with regard to, for example, a person's gender, race, disability, age, religion, ethnicity, nationality or sexual orientation. Such principles will apply to the implementation of human resources policies, recruitment and promotion as they apply to day-to-day dealings with fellow human beings.

#### **6. Conduct or Capability Issues**

- (1) Officers shall not be the subject of personal abuse or unsubstantiated criticism by Members. Similarly, Members shall not be the subject of personal abuse or unfair criticism by Officers. Where any Member or Officer considers that this part of the protocol has been breached, the matter will be drawn to the attention of the Monitoring Officer who, if appropriate, will then report the matter (i) in the case of an alleged breach by an Officer, to the appropriate Lead Manager, the Head of Paid Service and the Head of Human Resources for consideration under the Council's Disciplinary Procedures; or (ii) in the case of an alleged breach by a Member, to an 'Independent Person' for consideration in accordance with the agreed standards procedures.

- (2) Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings of the Council, any Committee, the Cabinet or Working Group or any other meeting where the public may be present. If a Member feels that they have not been treated with proper respect or courtesy, they should raise the matter, in private, with the Officer's Lead Manager. Any concerns with regard to a Lead Manager, the Chief Finance officer or the Monitoring Officer should be discussed, in private, with the Head of Paid Service. Any concerns regarding the Head of Paid Service should be discussed, in private, with the Leader of the Council and, if appropriate, the Leader of the political group of the Member concerned.

## **7. Officer Advice to Council, Cabinet, Committees and Working Groups**

It is essential that such advice is impartial and to the highest professional standard. In order to ensure such standard is maintained, the Head of Paid Service will determine which Officers should attend Meetings, including when Cabinet Portfolio Holders make individual decisions.

## **8. Officer Advice to Political Group Meetings**

- (1) There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making bodies. Officer support is available to all political groups and individual Members. Any request for Officer support should be made to the Head of Paid Service, who will determine which Officers should attend political group meetings.
- (2) Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:-
  - (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed.
  - (ii) Political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
  - (iii) Similarly, where Officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, relevant Committee or Cabinet Member when the matter in question is considered.

- (3) Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Council's Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and, for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members-only meeting.
- (4) Officers must respect the confidentiality of any political group discussions at which they are present. They should not relay the content of any such discussion to another political group or to any individual.
- (5) Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Head of Paid Service, who will discuss them with the relevant Group Leader(s).

## **9. Support Services to Members and Political Groups**

- (1) The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with political or campaigning activity or for private, business or social purposes.
- (2) Any private use of telephones and fax machines or the Council's Internet services must be reported to the Committee Services Team and a charge for this use may be made.

## **10. Officer/Cabinet Member/Chair Relationships**

- (1) It is important that there should be a close working relationship between Cabinet Members, the Chair of Committees, and the Council's Senior Management Team. However, such relationships should never be allowed to become so close, or appear to be so close as to bring into question the Officers' ability to deal impartially with the Member(s) concerned or other Members.
- (2) On those occasions when the Chair of a Committee is consulted as part of the process of drawing up the agenda for a forthcoming meeting, the Head of Paid Service will have ultimate responsibility for the final content of that agenda because setting the agenda constitutes an executive act which cannot be delegated to the Chair of a Committee.  
  
(Note: If the Council, the Cabinet, or a Committee has previously instructed that a specific matter should appear on a future agenda, then that item will automatically appear, because that instruction is an executive act).
- (3) The agenda for a forthcoming meeting of the Cabinet will be set by the Leader of the Council, in consultation with the Head of Paid Service.

- (4) A Cabinet Member and/or Officer will always be fully responsible for the contents of any report submitted in their name. If an issue arising from an Officer's report cannot be settled by the Lead Manager concerned and the Leader of the Council, other Cabinet Member or Chair of a Committee who has raised the issue, it shall be referred to the Head of Paid Service for resolution, in consultation with the Chair of the Council.
- (5) Finally, it must be remembered that Officers are accountable to their Lead Manager and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given.

## **11. Officers' Delegated Powers**

- (1) The Council gives delegated authority to certain Officers to act on the Council's behalf. The terms of that authority frequently require the Officer to consult certain Members, e.g. the Leader of the Council, a Cabinet Member or the Chair of a Committee. In other cases, the Officer should decide whether to consult, as a matter of courtesy.
- (2) If a matter relates solely to a particular Ward, the Officer with delegated authority should consult the appropriate Ward Member(s).

## **12. Correspondence**

- (1) Correspondence between an individual Member and an Officer should not be copied by the Officer to any other Member without the Member's consent. However, where such correspondence concerns Council policy, or the interpretation of Council policy, a copy should be sent to the Leader of the Council and Chair of the relevant Committee, together with the Head of Paid Service and relevant Lead Manager, and this should be made clear to the Member concerned. Under no circumstances should 'silent copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the Member involved.
- (2) Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances for a letter to appear in the name of the Chair of Council, the Leader of the Council or another Cabinet Member.

## **13. Involvement of Ward Members**

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected will, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultation exercise on a local issue, the Ward Member(s) will be notified at the outset of the exercise.

#### **14. Presentation of Council Policy and Practice**

All Officers are expected to explain and implement Council policy and practice, but not to engage in party political matters. Where there is, or is likely to be, criticism, from whatever source, of Council policy and practice, it is incumbent on Officers to assist the Council in explaining and implementing the particular policy or practice in issue.

## **E5 - Planning Protocol**

### **1. Purpose of this Protocol**

This protocol sets out guidance for both officers and councillors when determining Planning and related 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 Planning and Licensing Committee (hereafter, 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 policy and guidance) for control over development as defined in section 55(1) of the Town and Country Planning Act 1990 or any associated, updated or 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.

Members have 28 days from the date of validation of the application to make representations should they consider the application should be heard at Committee (where the scheme of delegation permits such an application to be able to be requested to be determined by the Committee). Should a Member require further time and the Statutory Consultee responses have not been received or published, then the Member may make a request to the case officer via email for an extension of time to make their request to call in.

Should no request be made in line with the timescales outlined above, the application will be able to be determined under delegated authority in line with the Scheme of Delegation.

Where a Member believes, for reasons related to material Planning considerations, that an eligible application should be referred to the Committee, they must request referral by completing the Review Panel pro-forma (available here: <https://forms.office.com/e/DxK0GSP00>). The form must clearly detail the Planning reasons why the Member believes 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 make a request to refer any eligible application 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 at the time of making it,

Applications being considered for referral to Committee will be collated for a meeting before each forthcoming Committee meeting (known as the Review Panel). The Review Panels will be generally held on a bi-weekly basis, and the application, should it be considered to go to the Committee, will go to the next available date.

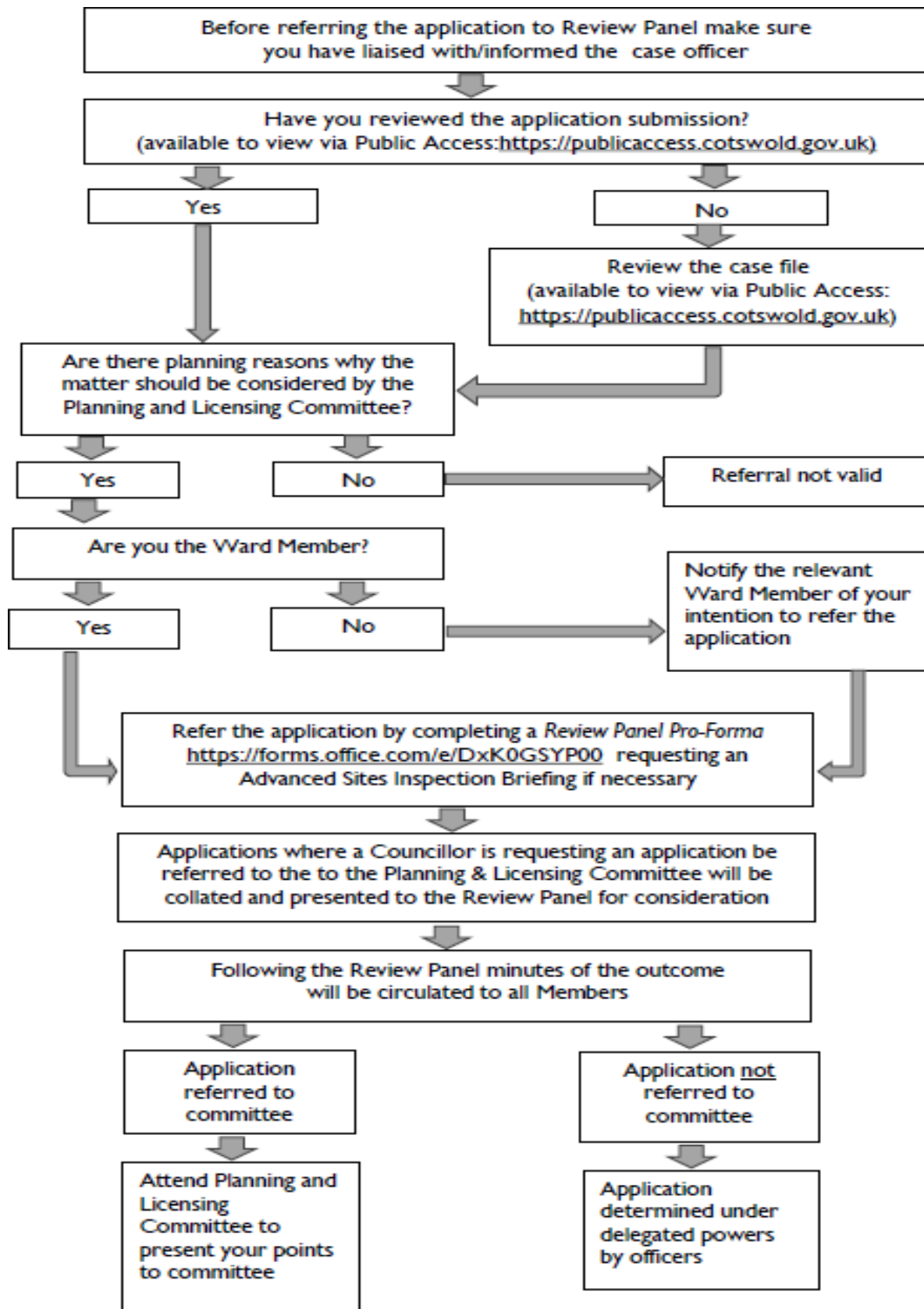
At this Panel, the Chair, Vice-Chair and Lead Officer will review the referral requests and will consider which applications should proceed to Committee. Referrals which do not contain valid Planning reasons will not be passed to Committee. The final responsibility for the decision will lie with the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

The Panel should comprise of the Lead Officer, Chair or Vice Chair (ideally both) and where appropriate a member of legal services will attend.

Following this meeting, the minutes of the Review Panel will be circulated to all Members and the relevant subsequent Committee agenda will be distributed to all relevant parties will at the appropriate time.



*Referral process flowchart:*



V4.16.05.24

## **2.4. Officers Report**

All applications to go to Committee 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 proper 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 process in relation to 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.

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(s) and, where appropriate (at the Chair's discretion), Members representing neighbouring wards directly affected by the proposed development will be invited to speak for up to five minutes each.

Where a Member for a site located outside of their own or a neighbouring ward referred that application to Committee, they will be invited to speak after public speaking and Ward Member speaking has occurred.

Where a Ward Member, or a (non-ward) Member who referred the application to Committee, is unable to attend that Committee, they may provide a written submission of up to 450 words to - and which will be read out by - the Democratic Services officer.

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

### 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.

## **2.6. Site Inspection Briefings (SIBs)**

Site inspections are usually called for by the Case Officer for large developments 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 SIB requests must be justified on Planning grounds and the strict criteria for holding them 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 requested 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 SIB, 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 SIB 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 Site Inspection Briefings (SIBs)

- Will be conducted in a formal manner.
- Chair or Vice-Chair will open the SIB, 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

#### SIB. 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 SIB on that matter. In addition, if an interest becomes apparent during a SIB, the Member should immediately declare it to the Chair and withdraw from the site. Members with another interest in an application subject to a SIB must declare the interest but may continue to attend the site.

## **2.7. 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.

## **2.8 . Decisions Contrary to Officer Recommendations or to Development Plan Policies**

Should the 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.

## **2.9. 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.

## **2.10. Committee unable to determine**

In any case where the Committee have voted both for and against a motion, both votes have been lost, and either no vote for deferral is made, or such a vote has also been lost, the Committee will be considered to be in 'deadlock' and the application will be referred to Full Council for determination.

## **2.11. Non Members of Planning & Licensing Committee Attending Meetings**

Councillors may attend Committee meetings even if they are not a Member of that Committee unless they have a Disclosable Pecuniary Interest in regard to the application being determined. They may speak on applications in their ward in their capacity as the Ward Member before the questions and proposals stage, but they cannot vote. When they attend 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 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 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) and upon any other related relevant considerations in regard to decisions on matters other than planning applications that are before them.

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:

- expressed an intention to vote in a particular way before a meeting, or
- acted as an advocate for the application, including being significantly involved in the preparation or submission of the application, or
- acted as 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 such 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 Committee 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 Committee 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 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, Committee Members 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.

Committee Members should avoid signing any Petition on a matter likely to be determined by the Committee.

If a Committee 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 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 on their behalf.

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 or appoint an agent to speak on their behalf.

### **4.2 Applications submitted by the Council itself**

All applications which are submitted by or on behalf of the Council on Council owned land 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**

A planning or related application, notification or request for prior approval (as set out within parts 3.A, B & C of the Scheme of Delegation) submitted by or on behalf of an employee (directly or indirectly) of the Council or Publica (or their partner, close relative or their partner's close relative), will be reported for determination to the Committee. Exceptions will apply for non-planning staff (except those in politically restricted posts) in certain circumstances, as set out within the Scheme of Delegation.

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# **Cotswold District Council**

## **Probity in Licensing Licensing Protocol**

**A guide to procedures and a  
protocol for Councillors and officers  
involved in making decisions  
on licensing applications and  
other licensing matters**

**(Approved by Council on 27<sup>th</sup> February 2014)**

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### Notes

The Protocol is to be read alongside the Councillors' and Officers' Codes of Conduct.

In this Protocol, the term 'Licensing Committee' is used to denote the Committee of the Council which is responsible for dealing with all development control and related matters.

## CODE OF PRACTICE: PROBITY IN LICENSING

### Introduction

Cotswold District Council's Licensing Committee operates in an "administrative" way. In essence this requires it to act fairly when determining contentious licensing applications, policy issues and related matters. Most applications are free of objection and are determined under powers delegated to Officers. This Code is written having regard to the Council's commitment to the principles of good enforcement, particularly openness and consistency that are included within the national Enforcement Concordat.

The Committee deals with major and contentious applications and most policy and policy guideline issues. Applications are referred for Members' consideration where they are contentious and/or 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. Hackney Carriage and Private Hire disciplinary matters are also dealt with by the Committee in accordance with the provisions of the Council's Hackney Carriage and Private Hire Licensing Policy.

The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore, if the Committee makes a wrong or irrational decision, this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.

Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee acts fairly and adheres to the following principles in that decisions **must**:

- Be made on the individual merits of a case
- Have regard to all relevant national and local guidance
- Be made impartially and in good faith
- Be made by the body that receives all the relevant information and evidence
- Relate to the issue or question placed before the committee
- Be based only on consideration of relevant and material matters
- Be proportionate, rational and reasoned
- Be made in a way that does not give rise to public suspicion or mistrust.

The purpose of this local Code of Practice is to set out in detail how Members should act and the procedures which should be followed to ensure that Members not only act in a fair and proper manner, but are also seen to do so.

This Code has been prepared with a particular emphasis on Members who serve on the Council's Licensing Committee but its content is also relevant to all other Councillors and also to Officers in all other services. The District Council, along with all other local authorities, has adopted a Code of Conduct which specifies the obligations imposed on Members and defines Disclosable Pecuniary Interests and Other Interests and how these will affect the way a Member behaves. That Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. In some areas this Code of Practice will extend, or go further than, the Code of Conduct. In the case of a conflict between the two, the Code of Conduct will take precedence.

It is possible that breaches of this Code of Practice could be considered to be a breach of the Code of Conduct.

This Code of Practice is part of the Council's Constitution and can be viewed on-line at [www.cotswold.gov.uk](http://www.cotswold.gov.uk)

### **Notes**

1. All references to the Licensing Committee include any Sub-Committee of the Licensing Committee as appropriate.
2. All references to the applicant refer to the applicant (which includes a person calling for a review of a licence), the licensee or the applicant's or licensee's representative as appropriate.



## Part One: Conduct of Councillors and Officers

### A. Voting and Impartiality

***1. Licensing Committee Members must vote in the best interests of the District as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of wider policies and guidance.***

The over-riding duty of a Committee Member is to the whole community, rather than just the people living in their Ward. This is a fundamental principle of the local democratic system.

***2. Members of the Licensing Committee must not declare which way they intend to vote in advance of the consideration of an application by the Committee.***

This can be a difficult issue for Members as they may be exposed to pressure from residents or the media to express a particular viewpoint. However, it is essential that Members are measured and circumspect in the comments they make. If a Member declares which way they intend to vote it would in effect be pre-determining the application without having considered all of the relevant information. This could expose the Council to the possibility of legal challenge or a charge of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides.

***3. If a Member of the Licensing Committee declares **OUTRIGHT** support for or opposition to a proposal before the matter has been put before the Committee, the Member must make an open declaration of their views to the Committee and take no part in the voting on that particular item.***

This rule follows on from item 2 above. It does not mean that Members cannot make a comment or reflect local concerns about a proposal before the Licensing Committee considers it. However, the view or comment must not pre-determine or be seen to pre-determine the way that Member will vote.

Predetermination is a legal concept that the courts have always applied to local authority decision making. It predates the Code of Conduct and is not altered by it. Pre-determination occurs where a Member's mind is closed to the consideration and weighing of relevant factors in the decision making itself

It is important that Licensing Committee members be open to any new argument at all times up to the moment of decision. A Licensing Committee Member with a pre-determined view on a licensing application is disqualified from participating in the Committee's decision-making on the application.

***4. Licensing Committee Members who are also members of the County Council or a Town or Parish Council must exercise particular care in reconciling their two roles.***

This rule would apply in the case of a Member(s) holding office in the District Council and also in the County Council and/or a Town or Parish Council. Such Member(s) may find that they are expected to express a view at a County Council or a Town or Parish Council meeting or vote on whether or not the County or the Town or Parish should object or comment on a proposal from a County or a Town or Parish point of view. In such circumstances Members are advised to abstain from both the debate and voting at the County Council or the Town or Parish Council. This is not inconsistency, but the consequence of having to fulfil two totally separate roles. If a Member does declare his or her outright support for or opposition to a licensing proposal at a County or a Town or Parish Meeting or elsewhere they must make an open declaration to the District Council's Licensing Committee to that effect and take no part in the voting and debate on that item, and leave the meeting. In all other cases Councillors on the Licensing Committee who are also members of the County Council and/or a Town or Parish Council may speak and vote at District and County and/or Town or Parish levels if they are genuinely willing to listen to the later debate and weigh the considerations material to the later decision.

***5. Licensing Committee Members should not organise support for or against a Licensing application and should not lobby other Councillors.***

Committee Members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each Member should make up his or her own mind on the evidence and facts presented to the Committee (See Section G on lobbying). With regard to other Members, it could give the impression that they were seeking to influence Committee Members (see section G on lobbying).

***6. Licensing Committee Members must not favour or show bias for or against any particular person, company or group, or any particular site or locality in respect of licensing matters.***

They should not put themselves in a position where they may appear to do so.

***7. Confidentiality***

It will be unusual for licensing applications or other matters to be treated as confidential items with the exclusion of the press and public, but it may occur.

The grounds why this may occur are set down in the Local Government Act 1972 and the Council's Constitution, and are most likely to be in relation to the conduct of legal proceedings, or disclosure of personal details.

Information which is of a confidential nature may also be provided to Members outside committee.

Members are expected to treat the information as confidential and are referred to the Code of Conduct which indicates that a breach of this confidentiality may be a breach of the Code of Conduct and result in a complaint to the Monitoring Officer.

## **B. Gifts and hospitality**

*1. Councillors and Officers must abide by the Council's policy in respect of Gifts and Hospitality as set out in the Code of Conduct for Members and the Officers' Code of Conduct which are part of the Council's Constitution.*

The policy on gifts and hospitality is contained in the Council's Constitution and Members and officers must be extremely careful in this respect to ensure no question of bias can be raised. The general rule is that no gifts should be accepted and only modest hospitality connected with the work concerned should be accepted.

## **C. Independence and impartiality of licensing officers**

*1. Members or other Officers within the Council must not instruct Licensing Officers to make or not to make a particular recommendation on a licensing application.*

Licensing Officers are trained to deal with licensing issues and will be aware of Government advice, case law etc., and will put forward a balanced report containing no recommendation. Other officers will provide advice as appropriate.

*2. Officers must always act impartially and advise the Council of their professional opinion.*

The District Council's Licensing Officers must always act impartially and give advice based upon a professional assessment of the individual merits of each case taking in to account all relevant policies, guidance and other relevant material considerations. If they do not, or even if it appears that they are not, the integrity of the licensing process is severely compromised. Where an appeal has been made against a decision made by the Committee, officers will always present the Council's case to the best of their ability.

Any officer who has an Interest in an application must declare it and, if necessary, leave the room whilst Members debate and reach a decision on that matter.

## **D. Declarations of interest**

*1. Members must always declare their interests in accordance with the Council's Code of Conduct*

The Council adopted its current Code of Conduct on 9<sup>th</sup> July 2013.

The Code of Conduct is contained in the Council's Constitution and must be read in conjunction with this Code of Practice.

All interests must be disclosed at the start of the meeting or when such interests become apparent, and an agenda item on this is included for every meeting. Depending on the nature of the interest (Disclosable Pecuniary Interest, or Other Interest), the Member may not be allowed to participate in the discussion or vote on the matter unless a dispensation has been granted. They must also not seek to improperly influence any decision on that matter.

**NB: Failure to disclose a Disclosable Pecuniary Interest is a criminal offence.**

The test Members should apply is not whether they themselves think they have an interest but whether others, knowing the relevant facts, would think they have.

If a Member has any doubt, advice can be taken, but if that doubt still remains it is best that an interest be declared. However, the responsibility for declaring an interest rests solely with the Member and these will be noted in the Committee minutes.

There will, however, be times when it only becomes apparent during the meeting that there is a declarable interest. Then the interest must be declared as soon as the Member becomes aware of it, even if it is during discussions on that particular item.

The Monitoring Officer should be informed of any declarable interests which should also be registered in the Register of Members Interests.

## **E. Involvement of Councillors with Applicants**

***1. Members of the Licensing Committee should not act as agents, or submit licensing applications for other parties or voluntary bodies.***

Any close involvement, or even perception of close involvement, can compromise the integrity of the licensing process. A Member acting as a licensing agent could give rise to suspicion that the Member was not impartial or may influence other Members in the decision making process.

***2. Any Member who is a Licensing advisor or similar agent will not be appointed to the Licensing Committee.***

Where Members need to submit licensing applications on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision making process. Decisions on any proposals submitted by or relating to premises/land/vehicle(s) etc. owned or controlled by serving Members should only be determined by the Licensing Committee. The

Committee alone should determine an application submitted by a Member's employer, irrespective of whether the Member is involved in the application, its preparation or submission.

## **F. Council Licensing Applications**

*1. Proposals to licence the Council's own land or premises must be dealt with in exactly the same way as all other applications, i.e. on their own merits.*

The Council's own proposals, or those of others on Council-owned premises/land, must be dealt with on exactly the same basis as applications submitted by any other applicant. Members must not have any regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a licensing proposal.

## **G. Lobbying of Councillors and Formal Submission of Information**

*1. Any lobbying of Members must be dealt with carefully to minimise the perception of influence*

This is a complex area and one that requires special care. Lobbying is an attempt to influence a Member's view in writing or verbally in order to achieve a particular decision by applicants, agents, objectors or other Councillors. It is a normal part of the political process, but where Members are making statutory decisions, such as licensing decisions, it can result in decisions being made improperly.

Members should treat lobbying with care and should ensure that "unofficial" views, promises or documents do not unduly influence them. Members should advise lobbyists to present their views in writing to the licensing case officer in order that they can be formally considered in a balanced way at the Committee meeting. Alternatively, Members may choose to pass on the views and or submissions of lobbyists to the officer but should make clear that they are not giving their own views, as this is a matter for formal consideration by the Licensing Committee.

Licensing decisions must be rational and be made strictly on the basis of the relevant facts, guidance and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the officer's reports and considered all the evidence.

Lobbying can be particularly problematical if Members are given information or assurances by applicants that do not form part of their formal application and are, therefore, unenforceable. Problems can also arise if Members are given information by objectors which may be misleading, untrue or irrelevant. Officers face particular

difficulties if they are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about them. This would cause particular problems if the Committee based a refusal on those matters which officers had not had an opportunity to consider and comment upon. Circulation of unofficial papers at a Committee meeting also constitutes a form of lobbying.

***2. Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.***

Only submissions from applicants, agents or objectors, which are formally received by licensing officers, can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulate 'unofficial' documents or introduce new information on behalf of an applicant or objector, or express what they believe to be an applicant's intention, if this did not form part of the application documents and correspondence. In all circumstances, copies of any letters, documents or correspondence should be given to the licensing officer to consider and comment on. Where fresh information comes to light after a committee report has been finalised and circulated, it may only be tabled in accordance with any relevant regulations or, if there are none, with the Chair's consent.

#### **H. Political Decisions on Licensing Applications**

***Decisions on licensing applications on the establishment of "party lines" cannot be made in political group meetings prior to a committee meeting.***

The view of the Ombudsman is that '*the use of political whips at group meetings is contrary to the National Code and amounts to maladministration*'. It could also give rise to a legal challenge of any decision by Judicial Review.

The Council's Constitution also states that political whips will not apply to the Licensing Committee.

#### **I. Application by Councillors, Officers or their relatives or friends**

These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly despite the scheme of delegation to officers to decide certain application, all such applications will be reported to Committee.

#### **J. The Role of Ward Members**

I. Being a Ward Member does not in itself constitute an interest in an application or create a risk of apparent bias. Providing the Ward Member does not have a Disclosable Pecuniary Interest or any Other Interest in applications before the Committee or providing there is nothing to indicate any risk of bias or

predetermination, a Ward Member's local knowledge may in fact give an additional insight to an application and its implications on the licensing objectives. Ward Members may use their local knowledge to ask relevant questions and clarify facts.

2. The right of Ward Members to speak at Committee meetings may be constrained by statute. For example, under the Licensing Act 2003 Ward Members may only speak if they have lodged a written relevant representation within the prescribed period of time and/or to represent their constituents. In the absence of any specific rules, Ward Members may be invited to address the Committee at the Chair's discretion.
3. Members who sit on the Licensing Committee are not permitted to vote on applications within their own ward but may nevertheless address the Committee in accordance with paragraph 2 above.
4. The role of Ward Members is, therefore, different from that of those Members making the decision in that Ward Members can engage with their constituents and make representations to the Committee on their behalf. It is for this reason, and to safeguard Members, that the restriction identified in Paragraphs 2 and 3 above have been made.
5. The views of Ward Members do carry weight with their colleagues who make the decisions. Ward Members should not become too closely identified with special interest groups and be careful to avoid pressure by applicants, objectors or supporters. There may be occasions where Ward Members are invited to attend meetings (for example, a formal meeting called by an applicant or objector) where it would be prudent for a Member to also invite an officer to be present.

## **Part Two: The Decision Making Process**

### **A. Pre-Application Discussions and Negotiations on submitted applications**

*1. Councillors should not, themselves, seek to advise applicants or agents about the likely acceptability of licensing proposals.*

Pre-application discussions should always be undertaken by the Council's officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Licensing Committee Members should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. If Members, whether or not they sit on the Licensing Committee, do give an indication of their initial reaction to a proposal they must make clear that any proposals will need to be formally considered by officers and/or the Licensing Committee. They should also make clear that officers and/or the Licensing Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly Members should not normally be involved in negotiations and discussions about submitted applications. There may be exceptional circumstances in respect of major or

contentious applications where there may be merit in Member involvement to explain a particular local viewpoint or issue. However, such discussions should take place only where at least one officer is present. The officer(s) will make a written record of any such meetings held and will place a copy on the application/premises file. Such a record will constitute a Background Paper for the purposes of the Access to Information Act and may be inspected by any interested person.

The fact that Committee Member(s) have discussed any such proposal with the applicant or objectors must be made clear when the application is before the Committee for determination. Under no circumstances should Members put pressure on officers to make, or change, any recommendations on an application.

## ***2. Officers' role in processing licensing applications.***

The Council employs professional officers whose job is to deal with the applications received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee.

The officers do have pre-application discussions which will try to assist applicants to submit applications in accordance with Council policies and to assist with the smooth processing of the application.

The officers will always put forward their professional view to Committee and be available to answer Members' questions.

## **B. Reports to Committee**

***1. Officers will provide written reports for all matters to be considered by the Licensing Committee (with the exception of matters of urgency) or when Committee has requested verbal updates on on-going matters.***

There will be occasions when matters arise after the Committee Papers have been prepared and sent out, but a decision of Committee will be required. If possible, a written report will be tabled, or if this is not possible the appropriate officer will provide a detailed verbal report on the issue, explaining why it is urgent. This shall be minuted.

Members are also permitted to raise matters of urgency under the Local Government Act 1972. However, if they do intend to do this the Licensing Officers should be informed prior to the meeting of the nature and content of the matter. Officers will attempt to answer any questions, but depending on the length of notice of the matter of urgency this may not be possible at that meeting.

Any matters of urgency can only be raised with the agreement of the Chair of the Licensing Committee who must give reasons as to why it is considered to be an urgent item.



***2. Officer reports to the Licensing Committee will be accurate and will, subject to statutory requirements, comprehensively cover all relevant: (i) policies, guidance, considerations and issues; (ii) information about the application/case; and (iii) the views of consultees and objectors.***

***3. In all cases, applicants/licensees will be given the opportunity of providing written material for inclusion in the report. Where they rely upon case law they will be required to give advance notice of the case(s) in question.***

***4. Each Committee report will be a balanced report containing no recommendation.***

In exceptional circumstances where, at the time of circulation of the report, negotiations are still on-going or an essential consultation or other response/information is awaited, officers will give a clear oral update and this will be minuted.

The report will be in the name of the Lead Manager or the appropriate case officer.

***5. Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.***

Written reports have always been a cornerstone of probity in the Council's system for committee determination of licensing matters. In the context of planning malpractice, relevant Government bodies have made it clear that written reports are essential, and the same principles should apply to the Council's licensing functions.

## **C. The Committee Hearing**

***1. The Council's Constitution will apply to the conduct of business.***

***2. Applicants/Licensees will be invited to attend the committee and be represented if they so choose, they will be sent a full copy of the report about their application/case.***

If they do not attend, the Committee can decide whether or not to deal with their item in their absence on the basis of the written report and the procedure as set out below.

***3. Members who intend to vote must be present in the meeting room throughout the Committee's consideration of an item so that they hear all of the evidence and hear/participate in the debate.***

***4. Committee Procedure.***

- The Chair will open the meeting and introduce Members of the Committee and Officers to all present. The Chair will explain the nature of the decision to be taken and the procedure (as detailed below) to be followed, emphasising that the role of the Committee is to determine the application in an impartial and even handed

manner, and in accordance with the relevant legislation, any National Guidance and/or the Licensing Authority's own policy.

- The Licensing Officer will outline the application, together with any relevant representations and any relevant policy and guidance. Members and then the other concerned parties will have the opportunity of asking the officer questions.
- The applicant (or the person representing him/her/them) will be invited to address the Committee. **(N.B. The Chair will at all times be mindful of the requirement to permit the parties equal time so far as is possible)**. Members, and then the other concerned parties, will have the opportunity of asking the applicant questions.
- Responsible/statutory authorities will be invited to address the Committee. Members and then the other concerned parties will have the opportunity of asking the responsible/statutory authorities questions.
- The other interested parties will be invited to address the Committee. Where there are a number of parties making similar representations, the Chair will encourage those parties to nominate a spokesperson to make their representations. Members, and then the other concerned parties, will have the opportunity of asking the other interested parties questions.
- The Chair will invite the applicant and/or other concerned parties to summarise their points if they wish. **(N.B. The applicant will be given the final right of reply)**.
- The Chair will confirm that all parties are satisfied they have had adequate opportunity to present their case. **(N.B. Again, the applicant will be given the final right of reply)**.
- Members of the Committee will retire to discuss and make their decision, and will be accompanied by the legal advisor (whose role is to assist the Committee with advice: they are not part of the decision making process).
- The Chair will relay the decision and the reasons for the decision and details of any conditions placed upon the licence (if granted) under the licensing objective that they relate to.
- Written notification of the decision, together with information regarding the right of a party to appeal against the decision, will be sent out as soon as practicable after the meeting and any statutory timescales will be followed.

The following good practice rules assist the smooth operation of the Committee and promote probity:

- I. The meeting will be conducted without any undue formality.

2. Members should not report new information that they may have been given by applicants or third parties which has not been submitted to officers for formal consideration and comment (see rule on lobbying in Part One, section G).
3. Members should seek any necessary clarification from officers on key issues before the meeting as this enables full replies to be given.
4. Members should not introduce any non-licensing matters to the debate.
5. Members should not speak at length on items where they are in full agreement with the Officer report.
6. Subject to any express statutory provisions to the contrary, at the discretion of the Chair of the Committee, the Ward Councillor(s) may be allowed to speak at Committee to express their own views or those of their constituents

#### **D. The Committee's Decisions**

*1. The Chair will allow all the concerned parties an opportunity to address the Committee before a vote is taken (in accordance with the procedure outlined above).*

Decisions must be proportionate, reasoned, rational and in accordance with the facts of the case and have regard to the provisions of all relevant policies and guidance.

However, decision making requires assessment and judgement of the weight to be attached to policies and guidance issues which, no matter how current, will never provide an answer for all, or even most, applications. Any decision made by the Licensing Committee which is contrary to the provisions of existing policy or guidance must be clearly justified and recorded.

#### **E. Deferrals and Committee Site Visits.**

##### *1. Deferrals*

*1. Where Members propose to defer consideration of an application they must set out clear reasons for doing so and these will be minuted.*

A proposal to defer any application must be valid and defensible. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed, or to secure amendments without which the application would have to be refused. Political expediency, such as deferring a contentious application until after Elections, is never an acceptable course of action.

##### *2. Site Visits*

- 2.1 Site visits are generally unnecessary and can risk putting the Members and the Licensing Authority at risk of accusation of bias.
- 2.2 In special circumstances where a site visit is required, or proposed, reasons justifying the need for it must be given.
- 2.3 All site inspections whether involving Members individually, or collectively, will be conducted in a strictly fact finding way and there shall be no on-site debate about the merits of the proposal, or any negotiations, or discussions with the applicant, agents or other concerned parties.

## **F. Public Attendance at Committee Meetings**

### ***1. Most Licensing applications on the Committee agenda will be considered in public session.***

Open public debate is a fundamental prerequisite of probity in the Licensing system. However, where exempt information under the Local Government Act 1972 (as amended) is included in a report it will be circulated as a confidential item and, subject to the applicant's/licensee's right to a public hearing such items will be considered with press and public excluded.

Any member of the public who disrupts the meeting in any way will not be allowed to remain in the room.

### ***2. Great care should be taken by Members mingling or speaking to applicants or objectors.***

Members of the Committee should be extremely careful in meeting with, and talking to, applicants or objectors either before or after the meeting. This could give the impression that Members had either prejudged a particular application, or had supported a particular view without looking at, and taking into account all the facts presented by the Officers.

## **Part Three: Administrative Matters**

### **A. Member Training**

Members who are exercising powers to grant or refuse applications are exercising an administrative function, in an area where there is a large amount of Government advice and law. Members must ensure they are adequately trained before carrying out this task. If a Member does not, or cannot, undertake the appropriate training, they must step down until they have received that training.

Members are also encouraged to research pertinent issues by reference to the licensing officer who can arrange access to publications, legislation, policy documents and guidance.

Members will be given regular updates to keep them informed of important changes in legislation, procedures or practices either orally, at training sessions, or as briefing notes.

## **B. Record Keeping**

Officers will ensure that Licensing application records contain sufficient information so that the reason for the ultimate decision can be understood by anyone who reads a file/record without a detailed knowledge of the application.

## **C. Complaints**

Any complaints received in writing about the way in which a Licensing application or other licensing matter has been dealt with in terms of procedures or fairness will be investigated under the Council's Complaints Procedure. The fact that someone may disagree with the decision reached is not a complaint which will necessitate investigation as such, although officers will endeavour to explain the reasons for the Council's decision in any particular case.

Where a complaint about a Council decision is received, a copy will be forwarded to the Chair of the Committee.

Complaints can also be made: to the Local Government Ombudsman regarding administrative maladministration (once the Council's internal complaints procedure has been exhausted); or to the Monitoring Officer regarding breaches of the Code of Conduct.

## **D. Further Advice**

This Code deals with the main issues of probity and conduct but cannot be expected to cover all eventualities that may arise. If Members are in any doubt about any probity-related issue, they are advised to contact the Monitoring Officer.

(END)

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## **Part E7: Protocol for the attendance of officers and members at meetings of another Public Authority**

This protocol is agreed by

Cheltenham Borough Council  
Cotswold District Council  
Forest of Dean District Council  
Gloucester City Council  
Gloucestershire County Council  
Stroud District Council  
Tewkesbury Borough Council

1. An authority may request officers and/or members of another authority to attend at a meeting or meetings of the authority or any of its committees, subcommittees, boards, panels or other gatherings being held at its offices. The purpose of such attendance is limited to assisting that authority in the conduct of its business including reviewing the effects of, but not scrutinising, decisions of another authority.
2. All such requests shall be made in writing to the Chief Executive of the authority at least 10 working days before the date of requested attendance and shall include the following information:
  - The date, time, location and anticipated duration of the attendance requested.
  - The name of the person(s) whose attendance is requested.
  - If a particular person's presence is requested the reason for selecting that person.
  - A summary of the matter in respect of which attendance is requested.
  - All questions which reasonably can be anticipated will be put to any person(s) attending (it is accepted that answers to questions may lead to further questions)
  - The names of the person(s) who will be putting questions.
  - A list of the names of all other persons expected to attend
  - The name and telephone number of the responsible officer as a point of contact for the person attending
3. The Chief Executive, having received such a request, shall respond to the request within five working days stating:
  - Whether anyone will attend.
  - Whether attendance will be as requested or that alternative arrangements will be necessary.

- Whether the particular person(s) whose presence is requested will attend or whether some other person will attend and who that person will be.
- Whether the questions specified in the request will be answered either at all or to some limited extent (in which case reasons will be given) or fully.

**In the event that there will be no attendance, whether and if so how and when, the questions notified will be responded to.**

4. All questions shall relate to facts and not opinion although the person attending may express opinions.
5. The person(s) attending may only decline to answer any question on the grounds of competence or knowledge.
6. All reasonable expenses relating to the attendance(s) will be met by the authority responding to the request.
7. All persons attending in response to a request shall at all times be treated with the highest standards of courtesy and respect and shall not under any circumstances be bullied, harassed or abused.



## **Part E8: Counter Fraud and Anti-Corruption Policy**

A copy of the latest Counter Fraud and Anti-Corruption Policy can be found on the Council website: <https://www.cotswold.gov.uk/about-the-council/council-data-and-access-to-information/report-internal-fraud-and-corruption/>

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## Part E9: Social Media Guidance for Councillors

### SOCIAL MEDIA GUIDANCE FOR COUNCILLORS OF COTSWOLD DISTRICT COUNCIL

July 2022

#### What is the purpose of this Guidance and who does it apply to?

Cotswold District Council has always been committed to innovation and creativity in the digital revolution which has taken place over recent years. We actively encourage the use of social media, which has become an integral part of everyday life for many of us as it is a useful way to communicate and connect with people from all over the world.

This Guidance doesn't seek to inhibit "freedom of expression", and means that Councillors are generally free to talk about, or write about, or otherwise, express their ideas and opinions without any censorship or interference - subject only to a few exceptions.

In respect of Councillors, social media has many benefits including raising a Councillor's profile, helping to deliver information to constituents in a fast and effective manner and for improving reputation. However, there are also many ways in which Councillors may use social media inappropriately, and this can have long lasting consequences for Councillors, and the Council's reputation.

The Social Media Guidance for Councillors ('the Guidance') is intended to assist Councillors when using social media, in a personal or professional capacity, to avoid potential breaches of their Code of Conduct. Whilst Standards matters are and dealt with on a case by case basis, this Guidance is designed to assist Councillors on what is and isn't appropriate behaviour when using social media.

**Importantly, this Guidance should be read in conjunction with the Council's Code of Conduct for Councillors.**

#### Who is this Guidance for?

The Guidance applies to all Councillors of Cotswold District Council.

## Pros and Cons of Social Media



## The Code of Conduct

Councillors are personally responsible for their conduct online and should always be mindful of the Code of Conduct and the Nolan Principles.

### 'Acting in Capacity' as a Councillor

This is a subjective test. However, there are actions which increase the likelihood of a Councillor being found as 'acting in their capacity as a Councillor'. For example, by identifying that they are a Councillor on their profile page, by using social media to campaign or to share Council news/developments with the public.

A Councillor may wish to consider the following when using social media:

- Keep separate accounts for professional and private matters

By having one account which incorporates both a Councillor's professional and personal life, Councillors are increasing the risk of being found as acting in their capacity if a complaint is made.

- If a Councillor wishes to keep just one account, be clear on what the account is used for. For example, if the account is personal, keep it private and refrain from using Council or Councillor terminology or referring to your role as a Councillor.
- While a Councillor may make a distinction on social media about what is a personal account/content and what is a Council business account/content, that does not mean what a Councillor posts on a personal account is private, and it could be shared by other people in public forums or used by the media.

## **General Responsibilities When Using Social Media**

In addition to the Code of Conduct, Councillors should be mindful of the following responsibilities:

- Councillors should take particular care to ensure that, in any comment or post they create, they do not imply that they are speaking on behalf of the Council as a whole.
- Once a post is made on social media, it is there for the world to see. Even if it is deleted this does not mean that someone has not already saved a copy of it. Councillors should never post anything on social media that they would not be prepared to discuss in public meetings, with the local media, with their constituents, and with their friends and family. Councillors should think carefully before engaging in activity on social media.
- Councillors should be honest about who they are on social media and not impersonate anybody if it could lead to bringing the Council into disrepute.
- Councillors should be mindful of the safety of themselves, their families and others. Any information posted to social media is public including pictures, profile information, friends list and comments. Individuals will be able to see your information and link you to other people, which may include vulnerable children and adults.
- Councillors should only share accurate information from reliable sources and should be mindful of 'fake news' stories and outlets. It's evidenced that anonymous profiles can contribute to the spread of misinformation or fake news, as well as cyberbullying, trolling and hate crime.
- Councillors should be trustworthy and not use social media to divulge any confidential or exempt information which has been shared with them.
- Councillors should keep their social media accounts secure and protected by passwords. They should not allow anybody else access to any of their social media platforms.
- Councillors should remain professional and polite when conversing with members of the public. This includes the use of private messaging, commenting on posts or replying.
- The way we interact with people in person is not just limited to the things we say. Body language, expression, tone of voice and who we are speaking to are all contributing factors to interaction. Considering this, Councillors should always consider how any comment/post they make on social media could be construed.
- Councillors should be mindful of the public perception of using social media during Council meetings and consider whether it is appropriate.

### **Dealing with Harmful Rumours and Mis-information.**

It is difficult not to engage when you are the subject of rumours, misinformation and smear campaigns. While it is always tempting to respond and clarify every rumour and falsehood circulated about you, it is also useful to think about the emotional, economic and time costs of engaging as in many cases, rumours disappear as quickly as they emerged. Councillors from other local authorities have shared some strategies they have found useful to deal with this.

Calmly try to understand who is behind the attack. Most of the time, they are people with a clear agenda trying to gain control or to manipulate.

Correct the facts. This can be done with a formal statement or if you can identify the source, then do it publicly by correcting their posts with facts and evidence. Remember that Officers are there to give advice, support and provide factual information.

Remember that rumours and misinformation are fed by repetition. It is good to defend your reputation but Councillors find that the most efficient way is to do it once and then stop engaging this way.

Leave the environment the rumour is being spread within. A smear campaign tries to manipulate and gain control but no control can be gained if you do not participate. You may wish to advise your followers that you will be logging out of social media for a period of time, which gives the rumour time to calm down while protecting your own emotional and mental wellbeing.

Rumours and smear campaigns can be very stressful and at times, they can feel very isolating. Keep your self-confidence by talking to family, friends and others in your support network. Some may also feel able to counteract rumours with factual information.

If you can identify the source of the rumours and smear campaigns, you should document it and keep a record. This may be useful if further disciplinary or legal action is required.

### **Potential Legal Issues**

Councillors should be mindful that, in addition to a potential breach of the Code of Conduct, misuse of social media may give rise to other consequences. The following issues, which may lead to criminal or civil legal proceedings, may also arise:

- Data Protection
- Publication of Obscene Material
- Incitement
- Copyright
- Harassment
- Discrimination
- Bias
- Defamation
- Judicial Review

### **Training**

Training on the use social media will be made available to Councillors.

The LGA has also published a Checklist for Councillors. This can be found at Appendix A.

If you are unsure, or have any questions about your social media use, contact the Monitoring Officer.

## Review

This guidance will be reviewed periodically by the Constitution Working Group.

## Appendix A

### LGA Checklist for Councillors

<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-l>

### Be a person

In the words of Digital Specialist [Euan Semple](#), "Organisations don't tweet, people do". You are likely to be more effective if your social media profile is you (with a picture of you) rather than an organisation with a logo.

### Don't worry about reaching everyone in your ward

Social media will be more effective in some wards than others. University towns, urban areas with good broadband and mobile connections, and a working age population tend to work best. Wards with an older population and poor internet connectivity tend not to be so effective at reaching your ward. However don't let this stop you as connections are getting continuously improving as we move towards a higher level of digital inclusion.

### Don't let it replace your traditional work

To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. The traditional work of a councillor still has to be done. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

### Think about the platform you'll use

If people in your ward are keen Facebook users then think seriously about Facebook. Twitter is popular among politicians because it's easy to use and connects people really well. Whichever one you choose, learn one at a time before even thinking of trying something else. You will know your residents better than anyone else so ask them which channel works best for them.

### See how other councillors use it

Watch and learn from other councillors who are using social media. Have a chat to them. You'll very often find they will be happy to talk. Even to those from different parties.

### Don't be a slogan machine

There is a really important decision to be taken over how political to be. You may have been elected on a party political ticket. But you are also a rounded human being. Social media is a chance for you to show your human side. Just posting party political content is likely to switch many people off and you may be talking only to the party faithful.

## **Have a conversation**

Social media works best as a two-way conversation connecting people and sharing information. Good councillors do this every day face-to-face with residents—social media should be no different to this.

## **Don't wait for people to come to you**

You've got your Facebook profile or your Twitter profile. People won't just come flocking to you. Run a search on your chosen profile for the name of your ward or an issue. Make a connection. Join a Facebook group set-up by residents. Comment on a blog, a website or a video clip.

## **Think about times when you won't post**

From experience, many elected members say that Friday and Saturday nights are not always the best time to post overtly political messages. You won't always get the most rounded debates. Many councillors post sparingly on religious holidays.

## **To post in meetings or not?**

Some authorities frown on posting from social media in meetings. Check the situation where you are. Residents, residents groups, journalists and bloggers are being encouraged to use social media from meetings. So adding your voice to the conversation may be a good thing as part of democracy. If you can post an update from a meeting and it doesn't hamper your role in that meeting then it's something to think about.

## **Don't have a row**

Robust debate is fine from time-to-time and it's part of the cut and thrust of local politics. Most people can accept that. But remember how this debate is playing out to passers-by who are not interested in the detail of the issue. They are likely to be switched off. Take the row offline with a phone call or an email.

## **Don't be abusive**

An absolute 'no no' is abusing people online. It doesn't work. It will make you look awful and is a sure-fire way to land you in trouble with your electorate, the party and the council. Be professional. Don't say anything you wouldn't be happy saying in a public meeting with the Press there.

## **Don't discuss case work detail**

Case work can be reported to you on social media. Everything from uncollected rubbish and a cracked paving slab to concerns about child protection. As a good rule of thumb, ask residents to tell you the detail of an issue offline. Social media platforms usually have an easy-to-use way to talk one-to-one. Email and telephone can come into play too.

## **Pictures work**

People respond really well to pictures. They don't have to be print quality. They don't have to be posed. If you are on a ward walk post some pictures. Include the people



you are with if they are happy with that. Post pictures that show your human side too. That sunrise you just noticed. Your dog. Things that make you human.

**Enjoy it**

It's not meant to be scary. It's not meant to be hard work. Relax. Be yourself. Be a responsible elected member. Enjoy it.

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# EXECUTIVE SCRUTINY PROTOCOL FOR COUNCILLORS OF COTSWOLD DISTRICT COUNCIL

November 2022

## 1. Introduction

1.1 Overview & Scrutiny must be located at the strategic heart of the authority and is a key element of the decision making process acting as a 'critical friend'.

1.2 This Protocol applies to Scrutiny (all members of the Overview & Scrutiny Committee, including substitutes and any Member who sits on an Overview & Scrutiny Task & Finish Group), and the Executive (all Members of Cabinet and executive officers with delegated authority to undertake executive functions).

## 2. Trust

2.1 All Members should promote an atmosphere of openness at Overview & Scrutiny meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust.

2.2 Overview & Scrutiny Members need to trust that Members of the Executive are being open and honest.

2.3 Executive Members need to trust Overview & Scrutiny Members with information and to trust in their views.

## 3. Policy Development and Pre-Decision Scrutiny

3.1 "Policy Development" refers to the development of the Budget and Policy Framework, which is defined in Article 4 of the Constitution as comprising the following plans and strategies (as agreed by Full Council 14 July 2021):

- 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)

3.2 The Budget and Policy Framework also includes a number of budgetary policies which may be more appropriately developed in conjunction with Audit Committee - 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, and The Capital, Treasury Management and Investment Strategies.

3.3 The importance of early input from Overview & Scrutiny into policy development is recognised. Scrutiny can act as a sounding board and a think tank in investigating issues coming up on the horizon, bringing in added value. Cabinet Members and Executive Officers should draw to the attention of Overview & Scrutiny Committee any key policy in addition

to those in the Budget and Policy Framework that is being developed or is due for review to ensure timely input.

3.4 The development of the Budget and Policy Framework needs to be an inclusive process involving both Cabinet and Overview & Scrutiny Committee. The Cabinet and relevant lead Officer will consider the views of Scrutiny in the development of the policy and provide a response to the recommendations of Scrutiny within 28 days or earlier should the report of the Cabinet require publication. The detail of Scrutiny's involvement shall also be included within the body of the Cabinet report. The Cabinet/Full Council will continue to be responsible for approving and adopting policy.

3.5 Cabinet Members may wish to request views from Scrutiny on a decision before it is taken. The Cabinet Member will be responsible for circulating the details to the relevant Scrutiny Committee Members, through Democratic Services. Utilising this as an option does not exclude the decision from being subject to call-in. However, it will give the Cabinet Member the ability to consider different views and perspectives of a decision to be taken before it is taken.

3.6 Scrutiny may review the Forward Plan and select upcoming decisions for pre-decision scrutiny.

#### **4. Holding Decision Makers to Account**

4.1 A key role of Scrutiny is in holding the Cabinet to account for decisions taken and performance of services. In holding the Cabinet to account Scrutiny Members will:

- Consider decisions taken by the Cabinet, individually and collectively and items on the Forward Plan through formal Overview & Scrutiny Committee meetings;
- Review service performance and performance against policy and targets;
- Be prepared to ask searching questions that provide a constructive challenge;
- Be positive and respectful in their interactions with Cabinet Members and Executive Officers;
- Represent the voice of the public;
- Listen to the responses provided and assist the Cabinet in identifying areas for further consideration and improvement.

4.2 In return, Cabinet Members will:

- Be willing to be open, honest and engaged in providing a response to constructive challenge;
- Value the importance of Scrutiny;
- Be supportive of the scrutiny process and invite and seek opinion from Scrutiny on decisions to be taken, where appropriate;
- Provide a positive contribution to Scrutiny meetings;
- Attend meetings when invited to do so to answer questions and present information:
  - By way of a direct answer
  - By reference to published publications
  - By referring a matter to an Officer in attendance, if they are not able to respond
  - If an answer cannot immediately be given, by providing a written answer within five working days unless it is not reasonable to do so. If considered unreasonable, an explanation as to why will be given.

- A combination of the above four options.

4.3 The Chair of the Overview & Scrutiny Committee has a legal role in respect of any key executive decision that has not been notified on the Council's Forward Plan for 28 clear days prior to the date of decision. In exceptional circumstances the Council may need to operate alternative decision making arrangements for a period of time e.g. in response to an emergency. In any such situation it is expected that the Chair of the Overview & Scrutiny Committee would be consulted on any urgent key decisions in the normal way.

## **5. Scrutiny Work Planning**

5.1 Prior to the start of each Municipal Year, Scrutiny will hold a Work Planning Workshop. As part of this Workshop the views of the relevant Cabinet Member(s) will be inputted, as will the views of Overview & Scrutiny Members, Officers, any external guests who are invited to contribute, and any members of the public who submit suggestions to the Council. The advice of the Cabinet Member(s) may be sought regarding the priorities of the Council, areas of planned policy development and they will be asked to highlight any areas of conflict and instances where Scrutiny may be invited to assist in work. The Workshop will inform the development of a draft Scrutiny Work Programme. At the beginning of the Municipal Year the views of any new Overview & Scrutiny Committee Members and Cabinet Members will be sought before the draft work plan is presented to the first meeting of the Overview & Scrutiny Committee for their endorsement.

5.2 The Chair & Vice-Chair of the Overview & Scrutiny Committee will informally meet periodically with the Leader and Cabinet Members in order to:

- Discuss upcoming issues and provide for ongoing Cabinet input into Scrutiny work plans;
- Ensure liaison between Scrutiny and the Cabinet over Council priorities, targets and performance;
- Continue to build on the positive working relationship between the two functions.

5.4 In setting and reviewing its work plan, Scrutiny will be mindful of the constraints of the organisation and will take advice from officers on prioritisation, which may be informed by the following considerations (TOPIC criteria):

**Timeliness:** Is it timely to consider this issue?

**Organisational priority:** Is it a Council priority?

**Public Interest:** Is it of significant public interest?

**Influence:** Can Scrutiny have meaningful influence?

**Cost:** Does it involve a high level of expenditure, income or savings?

## **6. Overview & Scrutiny Recommendations to Cabinet**

6.1 Scrutiny may make recommendations to the Cabinet about functions for which the Council is responsible or about issues that affect the district and its people through a report arising from a formal Committee meeting or by way of an Overview & Scrutiny Committee Task & Finish Group report.

6.2 Once Scrutiny has agreed a recommendation, the views of the relevant Cabinet Member(s) will be sought within 10 working days (if not already provided at a meeting) and will be included within the report. The Chair and Vice-Chair of the Overview & Scrutiny Committee will have the opportunity to meet with the relevant Cabinet Member(s) to

discuss the recommendation and the response before the final report is submitted to the Cabinet for consideration. Upon formal receipt of a recommendation from Scrutiny, Cabinet will:

- Give due consideration to any recommendations or views expressed and respond to recommendations in writing within 2 months of receipt of the recommendations;
- Provide an explanation for the reasons why recommendations made by Scrutiny have not been pursued (where applicable).

## **7. What Scrutiny Can Expect From Senior Officers.**

7.1 Whilst Scrutiny undertakes to deliver effective outcomes for local people, it will only be able to do this if senior officers make a commitment to work with and respond to Scrutiny in a constructive manner. The following are proposed as the roles and responsibilities that will govern the Council and Publica's relationship with Scrutiny. Senior Officers will:

- Provide professional advice to Scrutiny;
- respect the independence of Scrutiny;
- recognise the value that Scrutiny can add to service improvement;
- co-operate positively with Scrutiny in developing and undertaking its work programme;
- participate in the monitoring of the implementation of recommendations made by Scrutiny that are agreed by Cabinet;
- Contribute to a positive culture that values constructive scrutiny.

## **8. Call-in**

8.1 Decisions may be called in in accordance with the procedure rules set out in Part 4.13 of the Constitution. Cabinet Members will be expected to attend any meetings of Scrutiny at which a call-in request in relation to their area of responsibility is being considered. If the relevant Cabinet Member cannot attend, the Leader or a Deputy Leader should attend in their absence. The purpose of their attendance will be to answer questions of fact not to present the item. The following procedure will take place where call-ins are being considered:

- i. The Member who called in the decision will speak first;
- ii. The Chair will invite the Cabinet Member (decision maker) to respond;
- iii. The Committee will then ask questions of the decision maker, who may ask a relevant Officer to supply further information if necessary;
- iv. Scrutiny debates the issue and votes on the outcome. The Committee will either agree with the decision, in which case it can be implemented immediately, or agree to refer the decision back to the decision maker with comments. Alternatively the Committee could refer the call in to Full Council.

## **9. Scrutiny Consideration of Confidential or Exempt Decisions**

9.1 Scrutiny Members have a right to access exempt information pertaining to their engagement with policy development or decisions that have been taken or are yet to be taken in order to allow effective scrutiny. Should a Scrutiny Member wish to ask questions pertaining to exempt information at a public Committee meeting, the press and public will

be excluded from the meeting in accordance with the Council's Constitution and the Cabinet Member will be expected to answer in an open and transparent manner. The exempt information will remain confidential and all elected Members and Officers who receive that information shall maintain that confidentiality in line with the Codes of Conduct for Elected Members and Officers.

## **10. Ensuring Compliance with the Protocol**

10.1 The Monitoring Officer and the Business Manager (Democratic Services) will be responsible for overseeing compliance with the Cabinet/Scrutiny Protocol which should be used by Members to support the wider aim of supporting and promoting a culture of scrutiny. The success of the Protocol will be determined by:

- Recognition of the value of scrutiny;
- A clear record of constructive challenge;
- Valuable scrutiny reviews that achieve impactful outcomes;
- An open and accountable decision making process.

10.2 An Annual Report may be submitted to Full Council each year with the aim of demonstrating the impact of Scrutiny and the effectiveness of the Protocol. The report may also include the draft Scrutiny Work Programme for the following year.

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## Part E10: DRAFT Protocol for Electronic Voting

Electronic Voting, where available, will be used when votes are taken on resolutions at meetings of Cabinet, Council, and the Planning and Licensing Committee and at any other meetings of Committees or Sub Committees that have agreed to utilise electronic voting. Should the technology fail to enable members to vote electronically, the meeting will revert to voting by a show of hands (or roll call for recorded votes).

### **Moving to a vote**

When a recommendation or motion is put to the vote, the Chair will clarify what the meeting is being asked to vote on.

Democratic Services will then activate the vote on the system and the vote will remain open for 20 seconds. The Chair may declare the vote closed within 20 seconds if it is clear that all members have cast a vote, in which case Democratic Services will close the vote at that point.

### **Voting**

Members vote using the delegate units and may vote “for”, “against” or “abstain” on a proposal. Members may cast one vote. Proxy voting is not allowed.

Instructions on how to vote will be available in the meeting room from Democratic Services. Any member who wishes to vote and is unable to is advised to alert Democratic Services.

### **Format of votes**

Prior to the meeting Democratic Services will set up the votes in the system based on the recommendations listed on the agenda, identifying the agenda item number, its title (or a shortened title) and what the recommendation is seeking the meeting to resolve. Generally a single vote will be taken on the recommendations for each agenda item unless the meeting decides to vote on some recommendations separately. Examples of the format are below:

Item 10b - Recovery Investment Strategy: Rescind

Item 11 - Rural England Prosperity Fund: Approve, Delegate authority.

Item 14 - Motion 1: Provision of Community Public Access Defibrillators on New Developments: Agree

The above wording will appear on members’ delegate units and the “votes” tab on the Public-I webcast page (subject to any character limits).

### **Voting on amendments**

Where applicable, amendments will be circulated to members electronically and/or in paper form. Where an amendment is tabled during a meeting the Chair will clarify the proposal that the meeting is asked to vote on and Democratic Services will set up the vote at that time in the following format:

Item 11 – Amended Motion 1: Provision of Community Public Access Defibrillators on New Developments: Agree

**Confirming the outcome of an electronic vote**

The outcome of votes will be displayed on delegate units and the display screens in the Council Chamber. The view on the display screens will normally alternate between the overall voting numbers and the list of how each member voted.

The Chair will confirm the outcome of the vote and whether the proposal has been passed.

**Recording electronic votes in minutes**

Where possible the minutes will identify how each member voted, as well as stating the overall numbers voting for, against and abstaining on a proposal.

## **Cabinet Member Decision Making Protocol**

### **Prior to the decision date**

Agenda and report to be published 5 clear working days prior to the decision specifying the time and place and the name of the Cabinet Member.

Agenda to include declarations of interest

Cabinet Member decisions will be included on the Cabinet Work Plan for completeness where time allows.

Any Member who wishes to comment on an item is requested to send those comments (preferably by e-mail) to the Reporting Officer, copied to Democratic Services, by 1 working day before the meeting takes place

### **Decision Making Proceedings**

#### **1. Cabinet Member introduction**

Welcome to the public and introducing participants

Confirmation of comments received by the officer or by Democratic Services (if any have been received)

#### **2. Officer overview of the report**

Officer to provide a short verbal summary of the report with key details relating to the decision

Providing any updates that need to be considered by the Cabinet Member when taking the decision.

#### **3. Public Questions**

The Cabinet Member may invite public contributions or representations verbally at the meeting from members of the public present. Questions must relate directly to the decision. If a question is asked which in the view of the Cabinet Member is not relevant to the decision the member of the public will be advised where to direct their question.

#### **4. Cabinet Member Questions**

Cabinet Member to ask for any clarifications regarding the report and the decision which is required, including any alternative options which might be considered.

#### **5. Decision**

The Cabinet Member will verbally confirm the decision stating whether they accept the recommendations of the officer, whether they decide to take a different decision contrary to the officer's recommendation, or whether to refer the decision to a meeting of Cabinet.

The Cabinet Member then must inform the Democratic Services officer present of the reason for the decision which will be formally recorded on the decision notice.

**Meeting is then closed and webcasting is shut off**

### **After the meeting**

A draft decision notice is sent by Democratic Services to the Overview and Scrutiny Committee to allow 5 clear working days for 'call-in' of the decision.

If the decision is not called-in to the next Overview and Scrutiny Committee, the decision is then implemented on the next working day.

If the decision is called-in it will be referred to the next meeting of the relevant Overview and Scrutiny Committee.

## MONITORING OFFICER PROTOCOL

### 1.0 The Monitoring Officer

The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations but also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality.

The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

### 2.0 Introduction

The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound governance of the Council.

Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility to:

- Report on actual, and anticipated, illegality within the Councils;
- Report cases where the Ombudsman has found maladministration on the part of the Council;
- Maintain the Register of Members' Interests; and
- Administer, assess and investigate complaints to Members' misconduct.

The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

### 3.0 Appointment

The Monitoring Officer is appointed by Council, and may or may not be an employee of Cotswold District Council. Where the Monitoring Officer is an employee of the Council and leaves that employment, they automatically cease to be the Monitoring Officer for the Council. The Council may appoint an Officer as Interim Monitoring Officer pending a permanent appointment.

The Monitoring Officer is a Statutory Chief Officer in line the Constitution and is a direct report of the Chief Executive. Their appointment must therefore be made in accordance with the Officer Employment Procedure Rules in the Constitution.

#### **4.0 Personal Responsibility**

The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- The Monitoring Officer, (not the Council), will nominate an Officer as Deputy Monitoring Officer, with the power to act as Monitoring Officer where they are unable to act as a result of absence or illness; and
- In respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external lawyer to conduct a particular investigation.
- Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any Officer to assist them in the discharge of any non-statutory functions.

#### **5.0 Functions**

The functions of the Monitoring Officer are as follows:

##### **5.1 Statutory Functions**

- To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees, or any Member or Officer, has given rise to, or is likely to give rise to any illegality, in accordance with section 5(2)(a) Local Government and Housing Act 1989.
- To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any of its Committees, Sub-Committee, or any Member or Officer, has given rise to maladministration or injustice, in accordance with section 5(2)(b) Local Government and Housing Act 1989.
- To maintain the Register of Member's Interests in accordance with section 81(1) Local Government Act 2000 and section 29 Localism Act 2011.
- To administer, assess and investigate complaints of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

##### **5.2 Non-Statutory Functions**

- Ensure that the Council has effective governance arrangements in place
- Providing an effective, robust and ongoing programme of elected member training and development
- Contribute to the corporate management of strategic risks;

- Provide and lead effective scrutiny of the Council
- To monitor and uphold the Constitution
- To act as advisor to the Council and the Cabinet
- To act as advisor to the Standards Sub-Committee, in particular when sitting as a Local Hearing Panel, to determine allegations of breach of Code of Conduct
- To provide advice to Members on conduct and ethics matters generally
- To consult regularly with the Chief Executive, the Chief Finance Officer and Auditors to identify areas where the probity of the Council can be improved or better protected and to take appropriate action.
- To investigate any applications for dispensation from a Member and to report and recommend to the Council as appropriate
- To report to the Council on resources which they consider they require for the discharge of their functions

## **6.0 Advice and Decisions**

The Monitoring Officer's responsibilities fall into 3 distinct categories:

### **6.1 Advice**

A Member may seek advice from the Monitoring Officer, for example concerning their interests. The Monitoring Officer will provide their advice but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice.

### **6.2 Decisions**

Where the proposal, action or omission would cause the Council to act unlawfully, the Monitoring Officer may be required to decide whether there is any illegality that they are required to report to Council which would have the effect of suspending implementation of the action or decision until their report has been considered.

### **6.3 Advice and Decision**

In some case, for example a Member conduct matter, the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer.

## **7.0 Seeking the Advice of the Monitoring Officer**

The Monitoring Officer will be most effective if they are able to advice on any issue at an early stage of policy formulation or implementation. Officers and Members should therefore routinely consult the Monitoring Officer in respect of new policy proposals and action programmes.

Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission. Wherever possible, the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative means of achieving the objective or rectifying any deficiency. The Monitoring Officer will only make a report on illegality public where the relevant Officer or Member progresses the matter

despite having been advised not to by the Monitoring Officer. Before reporting to Council on any illegality or maladministration, the Monitoring Officer will consult with the Chief Executive and Chief Finance Officer.

The Monitoring Officer is responsible for advising Members on conduct and ethics matters and any Member can seek the confidential advice of the Monitoring Officer about their own position. Subject to any conflict of interest with the Council, the Monitoring Officer will advise whether in their view the conduct would amount to a breach of the Code, and will not disclose that advice unless required to do so by law or as part of an investigation into an alleged breach of the code. Members are encouraged to seek the advice of the Monitoring Officer concerning the conduct of another Member, prior to making a formal complaint, and they should do so in writing. The Monitoring Officer may make contact with the Member complained of, before responding.

## **8.0 Investigation**

The Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of code of conduct.

Where the Monitoring Officer is considering a complaint of a breach of the code of conduct they will follow the Council's procedures and arrangements set out for the assessment and investigation of such complaints.

Where the Monitoring Officer considers a complaint of illegality or maladministration and determines that the proposal, act or omission does, or would, give rise to maladministration or illegality, they shall seek to agree an alternative and lawful course of action and/or make a statutory report.

Upon receiving any complaint of illegality, maladministration or breach of the code of conduct, the Monitoring Officer will, where appropriate, seek to resolve the matter amicably and informally, but there may be circumstances where the matter is not appropriate for local resolution, is incapable of so being resolved, or if of such seriousness that a statutory report is the only appropriate response.

## **9.0 Reporting**

Where the Monitoring Officer is of the opinion that illegality or maladministration has occurred or will occur, they will, after consulting with the Chief Executive and Chief Finance Officer, report to Council. Alternatively, to negate the need for a separate statutory report, they are also able to add their written advice to the report on the matter by any other Council officer, and/or to provide oral advice at any meeting of the Council.

## **10.0 Advice to Individual Members**

Wherever possible the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring



Officer will not however provide advice to a political group of the Council. The Monitoring Officer is designated as statutory officer to the Council, rather than to any individual Member or group of Members. Where the Monitoring Officer considers that providing advice to a Member is incompatible with their role as advisor to the Council, they may decline to provide such advice but can, at their discretion, secure such advice from an independent source at the Council's expense.

## **11.0 Monitoring and Interpreting the Constitution**

The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Council's constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.

In order to conduct such monitoring and review, the Monitoring Officer may:

- Consult any Member or Officer, other organisations and stakeholders
- Observe meetings of Members and/or Officers at any level
- Undertake an audit trail of a sample of decisions;
- Record and analyse issues raised with them by Members, Officers, the public or stakeholders
- Compare practices in this Council with those in other comparable authorities, or national examples of best practice
- Consider any relevant reports and recommendations of the Auditors and other regulatory agencies.

The Monitoring Officer will maintain an up to date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of law, decisions made by Council and any other minor and consequential amendments.

The Monitoring Officer is responsible for advising on the interpretation of the Constitution.

## **12.0 Resources**

The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.

For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:

- The right of access to all documents and information held by or on behalf of the Council;
- The right of access to any meetings of Members or Officers of the Council, other than political group meetings;
- The right to require any Officer or Member of the Council to provide an explanation of any matter under investigation;

- A right to report to the Council and to the Executive, including the right to present a written report and to attend and advise verbally;
- The right of access to the Chief Executive and the Chief Financial Officer;
- The right, following consultation with the Chief Executive and the Chief Financial Officer, to notify the Police, the Council's auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- The right to obtain legal advice at the Council's expense from an independent external source.

### **13.0 Town & Parish Councils**

The Monitoring Officer provides:

- advice and training to Town and Parish Members in relation to the operation of the Code of Conduct;
- resources for investigations into allegations of a breach of the Code of Conduct by a town or parish councillor.

The Monitoring Officer is not responsible for carrying out other town or parish council functions. These are undertaken by each respective town or parish councils' Proper Officer appointed under S112 of the Local Government Act 1972.

## Part F – Local Petition Scheme

1. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions containing a minimum of 50 signatories sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. The Council will treat something as a petition if it is identified as being a petition or if it seems to the Council that it is intended to be a petition.
2. Paper petitions can be sent to the Chief Executive, Trinity Road, Cirencester, Gloucestershire, GL7 1PX or submitted electronically to [democratic@cotswold.gov.uk](mailto:democratic@cotswold.gov.uk)
3. If you would like to present your petition to Council, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services via [democratic@cotswold.gov.uk](mailto:democratic@cotswold.gov.uk) at least ten working days prior to the meeting. If your petition has received 850 signatures or more, it will be scheduled for Council debate and, if this is the case, we will let you know whether this will happen at the same meeting or at a later meeting of the Council.

### What are the guidelines for submitting a petition?

4. Petitions submitted to the Council must include:-
  - a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
  - the name and address and signature of any person supporting the petition. This may be an address where the signatory lives, works or studies.
5. Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.
6. Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. We will explain the reasons for this in our acknowledgement of the petition. In the period immediately before an election or referendum we may need to deal with your petition differently - if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### E-petitions

7. The Council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as papers petitions. The

petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures.

8. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition of you wish. When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as a paper petition, you will receive an acknowledgement within ten working days and a formal response within 20 working days.
9. A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information.
10. E-petitions may be combined at the request of the petition organiser with paper petitions. The wording of both petitions must be the same if the petitions are being brought together to reach the 850 signatures required for a debate at Full Council.

#### How do I sign an e-petition?

11. You can see all the e-petitions currently available for signature on the Council's website. When you sign an e-petition you will be asked to provide your name, the address in the Cotswolds where you live, work or study and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

#### What will the Council do when it receives my petition?

12. An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let the organiser know what we plan to do with the petition and when the organiser can expect to hear from us again. It will also be published on our website. If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate (850), or a Senior Officer giving evidence (425), then the acknowledgment will confirm this and tell the organiser when and where the meeting will take place. If the petition needs more investigation, the organiser will be told of the planned steps.
13. If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an Elected Mayor), or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply and this Scheme is not relevant.
14. To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be

removed).

How will the Council respond to petitions?

15. The Council’s response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Council’s Overview and Scrutiny Committee\*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

\*The Overview and Scrutiny Committee is a Committee of Councillors which is responsible for scrutinising the work of the Council - in other words, the Overview and Scrutiny Committee has the power to hold the Council’s decision-makers to account. Cotswold District Council’s Overview and Scrutiny Committee consists of Members of the Council who are not members of Cabinet or the Chair of the Council who are tasked with scrutinising the work of the Cabinet and holding the Members of the Cabinet to account.

16. In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition Subject	Appropriate Steps
Alcohol Related Crime and Disorder	If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a Designated Public Place Order or, as a last resort, imposing an Alcohol Disorder Zone. When an Alcohol Disorder Zone is established the licensed premises in the area where alcohol related trouble is being caused is required to contribute to the costs of extra policing in that area. The Council’s response to your petition will set out the steps we intend to take and the reasons for taking this approach.
Anti-social behaviour (ASB)	As the elected representatives of your local area, and the Licensing Authority, the Council has a significant role to play in tackling anti-social behaviour. The Council, in

	<p>conjunction with its partners in the local Safer and Stronger Communities Partnership, has set out minimum service standards for responding to issues of anti-social behaviour. When responding to petitions on ASB, the Council may consider, in consultation with our local partners, all the options available including the powers and mechanisms to intervene as part of its role as Licensing Authority. For example, the Council will work with the Neighbourhood Policing Team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, the Council will alert the Safer and Stronger Communities Partnership and the Overview and Scrutiny Committee to the issues highlighted in the petition.</p>
<p>Under-Performing Health Services</p>	<p>The Council will work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LiNK) might have in reviewing and feeding back on the issue (the LiNK is run by local individuals and community groups and independently supported - their role is to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The County Council's Health and Care Overview and Scrutiny Committee will also be alerted to the petition and, where the matter is sufficiently or potentially serious, the issue will be referred to that Committee to consider for review.</p>

17. If your petition is about something over which the Council has no direct control (for example the local railway or hospital), the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with these partners to respond to your petition. If the Council is not able to do this for any reason, then the petition organiser will be advised accordingly.
18. More information on the services for which the Council is responsible can be found on the Council's website at <http://www.cotswold.gov.uk>. If your petition is about something that a different Council is responsible for, we will give consideration as to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event, the petition organiser will be notified of what action has been taken.

#### Full Council Debates

19. If a petition contains more than 850 signatures, it will be debated by the full Council

unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next Meeting, although on some occasions this may not be possible and consideration will then take place at the following Meeting. The petition organiser will be given five minutes to present the petition at the Meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this Meeting. The Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Council's Executive (Cabinet) is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's Website.

### Officer Evidence

20. A petition may ask for a Senior Officer (Chief Executive or other Statutory Officer of the Council; or Public Executive Director or Assistant Director) to give evidence at a public meeting about something for which the Officer is responsible as part of their job. For example, the petition may ask a Senior Officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision. If your petition contains at least 425 signatures, the relevant Senior Officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another Officer to give evidence instead of any Officer named in the petition - for instance if the named Officer has changed jobs. The Committee may also decide to call the relevant Lead Member to attend the Meeting. Members of the Overview and Scrutiny Committee will ask the questions at this Meeting, but the petition organiser will be able to suggest questions to the Chair of the Committee by contacting Democratic Services up to three working days before the date of the Meeting.

### What can I do if I feel my petition has not been dealt with properly?

21. Should the petition organiser feel that the Council has not dealt with the petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee reviews the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
22. The Overview and Scrutiny Committee will endeavour to consider the request at its next Meeting, although on some occasions this may not be possible and consideration will take place at the following Meeting. Should the Committee determine that the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Cabinet (the Council's Executive) and arranging for the

matter to be considered at a Meeting of the Council.

23. Once the review has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on the Council's Website.



## Part G – Appendices

### Appendix A: Cotswold District Council Structure Chart

The latest management structure chart is available on the Council's website:

<https://www.cotswold.gov.uk/about-the-council/council-spending/>

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## Appendix B: Cabinet Portfolios

Information on the current Cabinet Portfolios is available on the Council's website:  
<https://www.cotswold.gov.uk/about-the-council/cabinet-roles-and-responsibilities/>

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**COTSWOLD DISTRICT COUNCIL**  
**SUMMARY OF MEMBERS' ALLOWANCES 2023/24 – 2026/27**

Cotswold District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

**1. Name and Duration**

1.1. This scheme may be cited as the Cotswold District Council Members' Allowances Scheme.

1.2. This scheme shall have effect for the period financial years 2023/24 to 2026/27

**2. Basic and Special Responsibility Allowances**

2.1. Subject to Section 3 of this Scheme a basic allowance at a rate of £5,544.00 per annum shall be paid to each Councillor. This is the starting figure for 2023/24 net of any uplift based on indexation for 2023/24 and the subsequent years (see 2.3).

2.2. Subject to Section 3 of this Scheme a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in the following Table, and the annual rate of each such allowance shall be the amount specified against that special responsibility in that table:

2.3 The basic allowance will increase annually from 1 April\* at the same rate as the percentage cost of living uplift in the national pay settlement for local government employees for that year. In the event that a cash sum, as opposed to a % increase is awarded, then the average increase in pay of those Publica staff supporting Cotswold DC and staff directly employed by Cotswold DC will be applied, as determined by the Deputy Chief Executive and Section 151 Officer. If the pay settlement is not known until after 1 April then a backdated uplift will be applied.

2.4. Any Councillor stepping down from a role with a Special Responsibility Allowance (and relinquishing all responsibility) for the purpose of taking a period of maternity, paternity or adoption leave will be entitled to receive 50% of the special responsibility allowance for up to six months. This is not contingent on the Councillor being reappointed or re-elected to their previous role at the end of their period of maternity, paternity or adoption leave.

\*The increase for 2023/24 will be deferred for 1 year.

**3. Part-year Entitlements**

3.1. The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of the year, that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

3.2. Where the term of office of a Councillor begins or ends in the period between 1 April and 31 March, the entitlement of that Councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in the year.

3.3. Where a Councillor has during part of, but not throughout, a period from 1 April to 31 March such special responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same

proportion as the number of days during which they have such special responsibilities bears to the number of days in the year

A. Basic Allowance

This is a general allowance paid to all Councillors. All Councillors receive the same amount per annum. This allowance is paid automatically to each Councillor on a monthly basis

<u>Rate</u>
£5,868.00 per annum per Councillor

B. Special Responsibility Allowances

These are special allowances paid to Councillors who hold positions with significant responsibilities over and above the general duties of an elected Member. Any such allowance is paid automatically to the relevant Councillor on a monthly basis. No more than 50% of Councillors should receive a SRA,

The affected positions and sums payable are as follows:-

- |  |   |
|--|---|
| • Chair of the Council (multiplier x 1)                                | £5,868.00 per annum   |
| • Vice-Chair of the Council (multiplier x 0.5)                         | £2,934.00 per annum   |
| • Leader of the Council (multiplier x 3)                               | £17,604.00 per annum  |
| • Deputy Leader of the Council (multiplier x 2)                        | £11,736.00 per annum  |
| • Cabinet Member (exc Leader & Deputy) (multiplier x 1.5)              | £8,802.00 per annum   |
| • Chair of the Planning & Licensing Committee (multiplier x 1.5)       | £8,802.00 per annum   |
| • Vice-Chair of the Planning & Licensing Cttee (multiplier x 0.5)      | £2,934.00 per annum   |
| • Chair of the Audit & Governance Cttee (multiplier x 0.5)             | £2,934.00 per annum   |
| • Chair of the Overview & Scrutiny Cttee (multiplier x 1)              | £5,868.00 per annum   |
| • Vice-Chair of the Overview & Scrutiny Cttee (multiplier x 0.5)       | £2,934.00 per annum   |
| • Leader(s) of registered minority political group(s) (multiplier x 1) | £5,868.00 per annum<br>divided between the<br>respective group<br>leaders |

C. Mileage Allowance

This is an allowance paid in respect of mileage incurred by a Councillor in travelling to and from official Meetings and other approved duties.

The rates are as follows:-

**Motor Cycle**

36.4p per mile

**Motor Car**

The rates specified above may be increased in respect of the carriage of passengers, not exceeding four, to whom a mileage allowance would otherwise be payable, by

45p per mile  
20p per mile for the first  
passenger; and 10p per  
mile for the second and  
subsequent passengers

**Bicycle**

45p per mile

D. Fares/Parking

A Councillor is able to seek reimbursement of actual expenditure incurred on other fares or parking fees in respect of attendance at official Meetings and other approved duties. VAT receipts must be produced.

Actual expenditure incurred

E. Subsistence Allowance

A Councillor is able to seek reimbursement of actual, but reasonable, expenditure incurred in respect of meals/subsistence when attending official Meetings or other approved duties (including conferences/seminars) where absence from home, including travel time, exceeds 4 hours and no food etc. is provided. Receipts must be produced.

Actual expenditure incurred

No subsistence costs will be reimbursed in relation to attendance at meetings at any District Council offices.

Alcoholic drinks cannot be claimed for.

F. Child Care Allowance

A Councillor is able to seek reimbursement of actual expenditure incurred on caring costs whilst attending official Meetings or other approved duties, up to a maximum sum per hour. The allowance is paid not only in respect of the duration of attendance at a particular Meeting by a Councillor but also in respect of “door to door” travel time to and from approved duties.

Actual expenditure incurred

The allowance is payable to any Councillor with a child or children under the age of 14 years who is/are, at the time, part of the claimant’s household living with them and who would normally be looked after by them. The carer must not be someone who also ordinarily lives with the claimant as part of the household.

The claimant must produce a receipt/return certified by the carer to validate any claim. Individual claims exceeding £100 may be invoiced direct to Cotswold District Council, for payment direct by the Council. The Democratic Services Manager shall have the delegated authority to ensure that care costs are reasonable based upon local rates.

G. Dependant Care Allowance

A Councillor is able to seek reimbursement of actual expenditure incurred on caring costs whilst attending official Meetings or other approved duties, up to a maximum sum per hour. The allowance is paid not only in respect of the duration of attendance at a particular Meeting by a Councillor but also in respect of “door to door” travel time to and from approved duties.

Actual expenditure incurred

The allowance is payable to any Councillor with a dependant relative or relatives who would normally be looked after by them. The carer must not be someone who ordinarily lives with the claimant as part of the household.

The claimant must produce a receipt/return certified by the carer to validate any claim. Individual claims exceeding £100 may be invoiced direct to Cotswold District Council, for payment direct by the Council. The Democratic Services Manager shall have the delegated authority to ensure that care costs are reasonable based upon local rates.

H. ICT Allowance

An allowance to support the direct provision of ICT equipment/ broadband connectivity and support

£300 per annum per councillor paid monthly or drawn down in a lump sum

I. Withholding Allowances

Where a Member is suspended or partially suspended from their responsibilities or duties as a Member of the Council and/or from their responsibilities or duties which attract a special responsibility allowance, that part of the basic allowance and/or special responsibility allowance, and travelling and subsistence allowances, payable to them in respect of the period of suspension or partial suspension be withheld.

J. Renunciation of Allowances

A Member may, by notice in writing to the Chief Executive, elect to forego all or any part of their entitlement to a basic or special responsibility allowance



## Appendix 4: Budget Protocol

### BUDGET COUNCIL PROTOCOL

#### 1. LEGAL REQUIREMENTS

- 1.1 The requirements of relevant legislation, particularly the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (referred to in this Protocol as "the Regulations") must be complied with.
- 1.2 The Regulations require the budget to be presented to Full Council by way of a recommendation from the Cabinet.
- 1.3 The budget proposal may be amended, see section 3. While an amendment can be quite wide ranging it is not permissible for a Member to introduce a different motion recommending a different budget. This would be contrary to the Regulations which require that the budget be recommended to the Council by the Cabinet.
- 1.4 Under Section 25 of the Local Government Act 2003 the Deputy Chief Executive, fulfilling the role of Chief Finance Officer, is under a statutory duty to report on the robustness of the budget estimates and the adequacy of the proposed financial reserves ("the Section 25 report") before the budget decision is taken. The Council must have regard to the Deputy Chief Executive's report before reaching a decision. This will apply to amendments as outlined in section 3.
- 1.5 A flowchart illustrating the procedure set out below is included as Annex A to this protocol.

#### 2. PROCEDURE

- 2.1 The procedure at Budget Council as at all Council meetings is governed by the Constitution.
- 2.2 The Cabinet recommendation on the budget will be proposed by the Cabinet Member with responsibility for Finance or by another Member of the Cabinet. The Secunder will have the right to speak next or to reserve the right to speak until later in the debate.
- 2.3 The budget proposer will have 15 minutes to introduce the budget. The Secunder will have 5 minutes to speak.
- 2.4 The Chair will then ask the opposition Groups(s) if they wish to respond to the budget proposals at this point or reserve their right to speak until after amendments have been dealt with. The opposition group(s) has the right to a 15 minute speech on the budget proposals either at this point in the debate or after amendments have been dealt with.

### 3. AMENDMENTS

- 3.1 Amendments to the budget motion may have significant implications for the calculations used in producing the budget recommendation and for the level of Council Tax and/or the Council's reserves. Therefore, **any** Member wishing to move an amendment which affects any of the proposals in the budget recommendation to any material extent should provide a copy of the amendment to the Deputy Chief Executive as early as possible before the meeting, preferably at least 2 days before the meeting, but by **no later than 3.00 p.m. on the Monday before the Council meeting**. The Deputy Chief Executive may need to discuss any proposed amendment with Officers and will need to show the proposed amendment to the Monitoring Officer but otherwise the Deputy Chief Executive guarantees absolute confidentiality in relation to any amendment received. The Monitoring Officer will also maintain this confidentiality.
- 3.2 The Section 25 report provisions apply also to any amendments which affect the estimates. The Section 25 report provisions do not, however, apply to an amendment which does not affect the estimates, such as an amendment to refer the matter back to the Cabinet for reconsideration. It should, however, be borne in mind that any resolution of the Council to refer the budget back to the Cabinet may have cost implications for the Council in that it may cause a delay in the Council Tax billing process.
- 3.3 If an amendment to refer a recommendation back to the Cabinet is carried then it is likely that a special meeting of the Cabinet will be called early in the week following the Budget Council meeting, with the matter then being reported back to a special Full Council meeting later that week.
- 3.4 While the figures in the budget proposal may be amended in any way, subject to the Section 25 report by the Deputy Chief Executive, an amendment which seeks to give an instruction to the Cabinet in relation to a specific service or services (e.g. to maintain or discontinue a specific service or budget provision) will not be in order as once the budget has been approved the Cabinet is free to spend or not spend, and to vire within the rules of the Budget Framework as set out in the Council's Financial Rules.
- 3.5 The Section 25 report on the robustness of any amendment, will be submitted by the Deputy Chief Executive before an adjournment allowing groups to discuss the amendment(s).
- 3.6 The Deputy Chief Executive will use a pro forma for the Section 25 report which will be handed to the Chief Executive.
- 3.7 The opposition group(s) will have the first opportunity to present budget amendments. The opposition group with the largest number of members would present their budget amendments first followed by the next largest group. The proposer will have 5 minutes to speak. The Seconder of the amendment will have 5

minutes to speak and may reserve their right to speak until later.

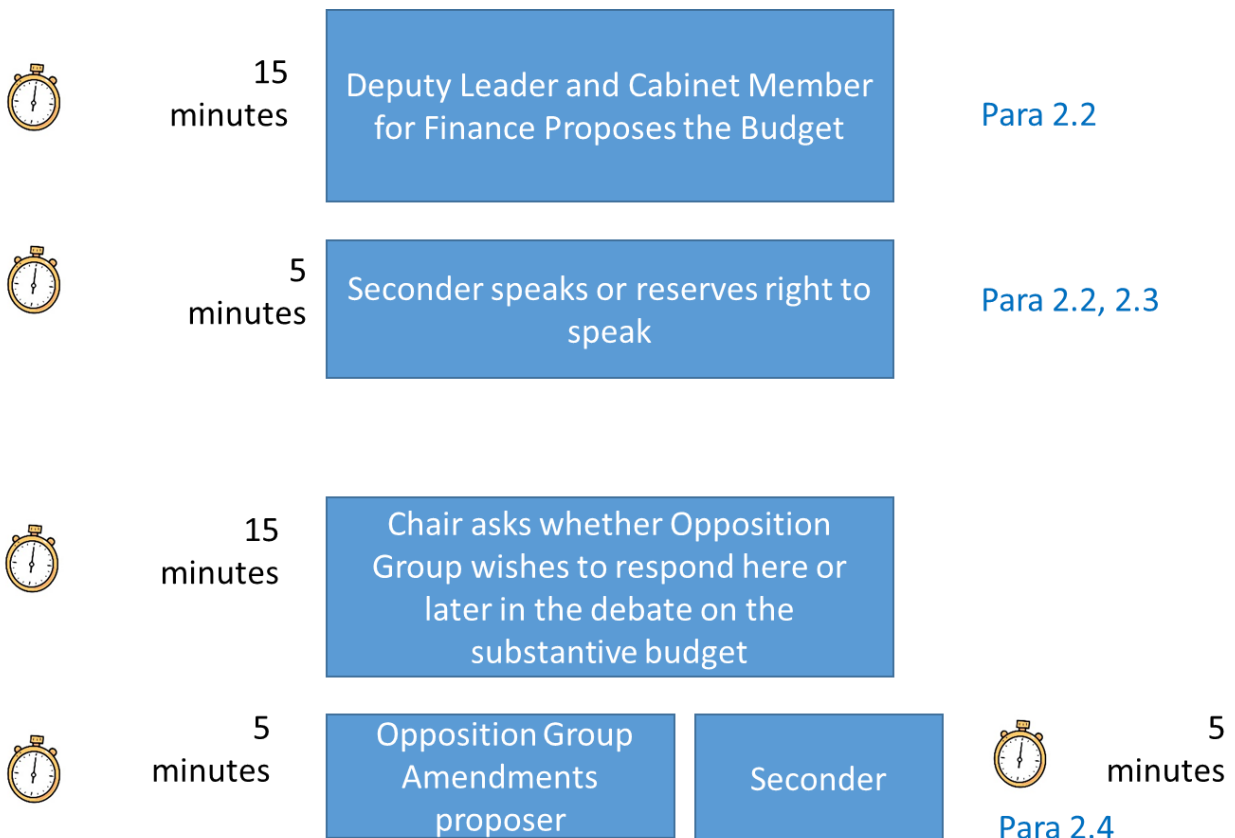
- 3.8 Members of any other group(s) will then have 5 minutes to present their amendment(s). The seconder of the amendment(s) will have 5 minutes to speak and may reserve their right to speak later.
- 3.9 Any Independent Member(s) will then have 5 minutes to present amendments. The Seconder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.10 After all amendments have been presented, there will be the opportunity for points of clarification to be raised and responses given.
- 3.11 Once points of clarification have been dealt with the Chief Executive will formally report that the Deputy Chief Executive has certified that each amendment is robust. In the event that the Deputy Chief Executive concludes that amendment(s) is/are not robust, this will be reported by the Chief Executive. If necessary, the Deputy Chief Executive will address the Council on the issue(s).
- 3.12 There will then be a 20 minute adjournment of Council to allow group(s) 20 minutes to consider the amendments.
- 3.13 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, will address Council advising of any budget amendments which have been accepted by the Administration.
- 3.14 The amendments not accepted by the Administration will then be debated in the order in which they were originally presented to Council.
- 3.15 For any amendments which are not accepted, the Proposers of the amendments have the right to speak for 5 minutes each to sum up the debate.
- 3.16 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, has the final right of response before a recorded vote is taken on the amendment.








#### **4. RETURN TO THE SUBSTANTIVE BUDGET DEBATE**

- 4.1 Once all of the amendments have been determined, the proposed budget will be debated.
- 4.2 Any Member will then be able to ask questions on the proposed budget. Questions may only be asked of the Member who proposed the motion and not of any other Member of the Cabinet or other Member of the Council.
- 4.3 A Member may only ask one question, plus any supplementary questions.

- 4.4 A Member who has asked a question may ask supplementary questions. A supplementary question must relate to the original question, or to any answer given to the original question or any previous supplementary question. A supplementary question may not introduce a new matter.
- 4.5 The opposition group(s) may respond to the budget proposals if they have reserved the right to speak following the Administrations introduction of the budget proposals. The opposition group(s) have the right to a 15 minute speech on the budget proposals.
- 4.6 The Seconder of the proposed budget has the right to speak for 5 minutes if they have not spoken before.
- 4.7 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, will sum up the debate.
- 4.8 A recorded vote will be taken.

**Procedure:**



	5 minutes	Any Other Budget Proposals – Other Group Representatives	Secunder		5 minutes
	5 minutes (each member)	Any Other Budget Proposals – Independent Members	Secunder		5 minutes
	No time limit	Points of clarification			Para 3.11
		Chief Executive announces the Deputy Chief Executive views on the budget amendments			
	20 minutes	Adjournment Groups Meet to discuss proposals			Para 3.12
	5 minutes	Deputy Leader and Cabinet Member for Finance to advise Members where Administration has accepted budget amendments			Para 3.14
	No time limit	Debate – on amendments any Member can speak if they have not spoken before			
	5 minutes EACH	Opposition Proposer and/or Other Group Proposer and/or Independent Member Proposers Sum up debate on any amendments not accepted by the Administration			Para 3.15
		Deputy Leader and Cabinet Member for Finance right to respond to each amendment			Para 3.16
Recorded Vote on Individual Amendments					

Return to Substantive Budget	
Questions on Budget	
Opposition Group(s) may respond here to the substantive budget if right was reserved prior to budget amendments	
General Debate –any other points on the budget to be raised	Para 4.1 to 4.5
Secunder of the budget has opportunity to speak if they have not spoken before	Para 4.6
Deputy Leader and Cabinet Member for Finance to sum up	Para 4.7
Recorded Vote	Para 4.8