



# Constitution

**2016**

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**APPENDIX 1**

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# **Part 1**

## **Summary and Explanation**

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## **PART 1 - SUMMARY AND EXPLANATION**

### **1. THE COUNCIL'S CONSTITUTION**

Huntingdonshire District Council has a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

Article 1 of the Constitution commits the Council to provide a clear leadership in the community in partnership with citizens, business and other organisations; efficient, effective and accountable decision making with the active involvement of citizens; effective representation by Councillors of their constituents; and continuous improvements in service delivery.

Articles 2 - 16 explain 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 meeting (Article 4);
- ◆ Chairing the Council (Article 5);
- ◆ Overview and scrutiny of decisions (Article 6);
- ◆ the Executive or Cabinet (Article 7);
- ◆ Regulatory and other committees and panels (Article 8);
- ◆ the Standards Committee (Article 9);
- ◆ Area committees (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); and
- ◆ Suspension, interpretation and publication of the Constitution (Article 16).

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

The Council is composed of 52 Councillors with one third elected three years in four.

Councillors are democratically accountable to residents of their Ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints and holds to account the Executive Leader, the Cabinet and other committees and panels. It is responsible for changes to the Constitution of the Council and the various codes and protocols contained in it.

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

The Cabinet is the part of the Council which is responsible for most day to day decisions. The Cabinet is made up of the Executive Leader and up to nine councillors appointed by the Council. When major decisions are to be discussed or made, these are published in the Cabinet's Notice of Executive Decisions as far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for members of the public to attend except where personal or confidential matters are being discussed. 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.

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

There are three Overview and Scrutiny Panels who support the work of the Cabinet and Council as a whole. They allow citizens to have a greater say in Council matters by holding enquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Panels also monitor the decisions of the Cabinet. They can "call-in" a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of a policy.

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

The Council has people working for it (called "officers") to give advice, implement decisions and manage the day to day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.



## 6. CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, while others depend on the Council's own processes. Rural Cambridgeshire CAB can advise on individuals' legal rights.

Where members of the public use specific Council services they have additional rights. These are not covered in this constitution.

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;
- ◆ attend meetings of the Council and its committees and panels except where, for example, personal or confidential matters are being discussed;
- ◆ submit petitions at meetings of the Council;
- ◆ petition to request a referendum for a change of governance arrangements e.g. Mayoral form of executive;
- ◆ contribute to investigations by the Overview and Scrutiny Panels by submitting evidence and comments on the enquiries being undertaken;
- ◆ find out from the Cabinet's Notice of Executive Decisions what major discussions are to be discussed by the Cabinet or decided by members of the Cabinet or officers
- ◆ attend meetings of the Cabinet where key decisions are being discussed or decided; except where, for example personal or confidential matters are being discussed
- ◆ see reports and background papers specified and any record of decisions made by the Council and the Cabinet;
- ◆ complain to the Council about the standard of service provided and any action or lack of action by the Council, its officers or contractors;
- ◆ complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However they should only do this after using the Council's own complaints process;
- ◆ 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; and
- ◆ inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen please visit the Council's website [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk)

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## **Part 2**

# **Articles of the Constitution**

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## **ARTICLE 1 - THE CONSTITUTION**

### **1. POWERS OF THE COUNCIL**

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

### **2. THE CONSTITUTION**

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

### **3. PURPOSE OF THE CONSTITUTION**

The purpose of the Constitution is to:-

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

### **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 above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **ARTICLE 2 - MEMBERS OF THE COUNCIL**

### **1. COMPOSITION AND ELIGIBILITY**

#### **(a) Composition**

The Council will comprise 52 members otherwise called councillors. Between 1 and 3 councillors will be elected by the voters of each ward in accordance with the scheme drawn up by the Electoral Commission and approved by the Secretary of State.

#### **(b) Eligibility**

Only registered voters of the Huntingdonshire District or those living or working here will be eligible to stand for the office of councillor.

### **2. ELECTION AND TERMS OF COUNCILLORS**

The ordinary election of one third (or as near as may be) of all councillors will be held on the first Thursday in May in each year. Elections will be held in 2016 of one third of the Members of the Council where the terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. There will be no regular elections in 2017. A whole Council election will be held in 2018 arising from the electoral review. In December 2015 Council resolved to move to all out elections with effect from the ordinary day of Elections in 2018.

### **3. ROLES AND FUNCTIONS OF ALL COUNCILLORS**

**Key Roles** - All councillors will:-

- (i) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent all residents of the Council's area with special responsibility to the residents in their ward.;
- (iv) respond to constituents' enquiries and representations fairly and impartially;
- (v) participate in the governance and management of the Council;
- (vi) be available to represent the Council on other bodies; and

(vii) maintain the highest standards of conduct and ethics.

**4. CONDUCT**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer relations set out in Part 5 of this Constitution.

**5. ALLOWANCES**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

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## **ARTICLE 3 - CITIZENS AND THE COUNCIL**

### **1. CITIZENS' RIGHTS**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

#### **(a) Voting and Petitions**

Those on the register of electors may sign a petition to request a referendum for a different form of governance in accordance with the timetable as prescribed under legislation, and to vote in any local referendum in respect of an increase in the local authority's precept.

#### **(b) Information**

Citizens have the right to:-

- (i) attend, record and report on meetings of the Council and its Cabinet, committees and panels except where confidential or exempt information is likely to be disclosed and the meeting, or part of the meeting, is therefore held in private;
- (ii) find out from the Notice of Executive Decisions what key decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers and any records of decisions made by the Council and the Cabinet;
- (iv) inspect the Council's accounts and make their views known to the external auditor; and
- (v) submit petitions at a meeting of the Council.

#### **(c) Complaints**

Citizens have the right to complain to:-

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme; and
- (iii) the District Council about a breach of the Members' Code of Conduct; and
- (iv) the District Council about a breach of their respective Members' Code of Conduct of any town and parish councillor in Huntingdonshire.



## **2. CITIZENS' RESPONSIBILITIES**

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

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## **ARTICLE 4 - THE FULL COUNCIL**

### **1. MEANINGS**

- (a) **Policy Framework** - the policy framework means the following plans and strategies -
- ◆ Plans and alterations which together comprise the Development Plan
  - ◆ Council's Corporate Plan
  - ◆ Licensing Act
  - ◆ Gambling Act – Statement of Principles
  - ◆ Budget - the budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirements, the control of the Council's investments, the control of its capital expenditure and the setting of virement limits.

### **2. FUNCTIONS OF THE FULL COUNCIL**

Only the Council will exercise the following functions:-

- (a) adopting and changing the Constitution, other than Part 3 – Scheme of Delegations and any changes the Monitoring Officer makes to the Constitution to reflect changes in legislation and decisions of the Council and the Executive and changes of fact;
- (b) approving or adopting the policy framework and budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to policy framework or contrary to/or not wholly in accordance with the budget;
- (d) electing the Executive Leader;
- (e) agreeing and/or amending the terms of reference for committees and panels, (with the exception of the Licensing Committee) deciding on their composition and making appointments to them;
- (f) agreeing the appointment of the membership to Council Committees;
- (g) adopting an allowances scheme under Article 2, paragraph 5;

- (h) the appointment of the electoral registration officer and the returning officer to local government elections, power to change the name of the District, petition for borough status and confer honorary titles, functions relating to a change in governance arrangements (the Council's form of executive) and the passing of a resolution to change the electoral scheme (the electoral cycle);
- (i) confirming the appointment of the Head of Paid Service;
- (j) taking the final decision to dismiss the Head of Paid Service, S151 Officer or Monitoring Officer,
- (k) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (l) the functions described in Article 11, paragraphs 1 and 2 (Delegation to and from other local authorities and under joint arrangements);
- (m) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (n) all other matters which, by law, must be reserved to the Council.

### **3. COUNCIL MEETINGS**

There are 3 types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

### **4. RESPONSIBILITY FOR FUNCTIONS**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **ARTICLE 5 - CHAIRING THE COUNCIL**

### **1. ROLE AND FUNCTION OF THE CHAIRMAN**

The Chairman will be elected by the Council annually in accordance with the Council Procedure Rules in Part 4 of this Constitution. The Chairman of the Council and, in his/her absence, the Vice-Chairman of the Council has a dual role –

- ◆ to act as the leading citizen in Huntingdonshire and to represent the Council at the various functions of a civic nature which the Council might host or at which it might be represented; and
- ◆ to encourage and promote high standards of debate in meetings of the Council and to promote the role of the Council as the forum for local democracy in Huntingdonshire.

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## **ARTICLE 6 - OVERVIEW AND SCRUTINY**

### **1. TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY PANELS**

The Council will appoint such Overview and Scrutiny Panels as it thinks fit.

### **2. GENERAL ROLE**

Within their terms of reference, the Overview and Scrutiny Panels will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
- (iii) review the performance of the Council and the achievement of performance indicators and targets;
- (iv) consider any matter affecting the area or its inhabitants; and
- (v) exercise the right of call-in, for reconsideration, decisions made but not yet implemented by the Executive Leader, the Cabinet, an individual member of the Cabinet, a committee of the Cabinet or a key decision made by an officer.

## **ARTICLE 7 - THE CABINET**

### **1. THE EXECUTIVE LEADER AND CABINET**

The Executive Leader is responsible for the discharge of 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 Executive Leader has arranged for the discharge of the executive functions by the Cabinet which, unless the Executive Leader otherwise directs will undertake those functions collectively or by delegation to a panel of the Cabinet or individual executive councillors as specified in Tables of Part 3 of this Constitution.

### **2. FORM AND COMPOSITION**

The Cabinet will consist of the Executive Leader together with at least two, but not more than nine, Councillors appointed by the Executive Leader.

### **3. EXECUTIVE LEADER**

The Executive Leader is a councillor and will be elected at an annual meeting of the Council for a four year term and thereafter at the annual meeting when the Executive Leader's term of office comes to an end. The Executive Leader will hold office from the date of his/her election to that position until:-

- (a) the first annual meeting after the Executive Leader's normal day of retirement as a councillor;
- (b) he/she resigns from the office; or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council.
- (e) he/she is disqualified from being a councillor

### **4. The Executive Leader shall appoint a councillor to be Deputy Executive Leader who shall be a member of the Cabinet. The Deputy Executive Leader will hold office from the date of his/her appointment to that position, until:-**

- (a) the end of term of office of the Executive Leader;
- (b) he/she resigns from the office; or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by the Executive Leader.
- (e) he/she is disqualified from being a councillor

**5. OTHER CABINET MEMBERS**

Other Councillors will be appointed to the Cabinet by the Executive Leader and will hold office until the day that -

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) they are removed from office, either individually or collectively, by the Executive Leader.
- (d) he/she is disqualified from being a councillor

**6. CASUAL VACANCIES**

Any vacancy in the position of the Executive Leader shall be filled by the Council at the meeting that the Executive Leader ceases to hold office or at a subsequent meeting. Any vacancy in the position of Deputy Executive Leader or member of the Cabinet will be filled by the Executive Leader and reported to Council at the next meeting. The person(s) elected or appointed shall be subject to the term of office described in paragraphs 3 to 5 above.

**7. PROCEEDINGS OF THE CABINET**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

**8. RESPONSIBILITY FOR FUNCTIONS**

- (a) The Executive Leader will maintain or arrange to be maintained a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees appointed by the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.
- (b) If for any reason the Executive Leader is unable to act or that office is vacant, the Deputy Executive Leader will act in his/her place. If for any reason both the Executive Leader and Deputy Executive Leader are unable to act or those offices are vacant, the Cabinet will act in place of the Executive Leader or will arrange for a member of the Cabinet to do so.

**ARTICLE 8 -  
REGULATORY AND OTHER COMMITTEES AND PANELS**

1. **REGULATORY AND OTHER COMMITTEES AND PANELS**

The Council will appoint the committees and panels it sees fit.

- 1a. No Member shall be eligible to serve on a Regulatory Committee - the Development Management and Licensing & Protection Committees and Licensing Committee unless or until they have undertaken relevant training. The Elections and Democratic Services Manager shall maintain a record of attendance at training events to ensure the requirement has been met.

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**ARTICLE 9 -  
STANDARDS COMMITTEE**

**1. STANDARDS COMMITTEE**

The Council will appoint a Standards Committee under Section 102 of the Local Government Act. Its composition shall be governed by proportionality and it shall be subject to the same requirements on confidential and exempt information as any other Committee.

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**ARTICLE 10 -  
AREA COMMITTEES AND FORUMS**

**1. AREA COMMITTEES**

The Council may appoint area committees or forums as it sees fit.

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## **ARTICLE 11 - JOINT ARRANGEMENTS**

### **1. JOINT ARRANGEMENTS**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities. (Such arrangements may involve the appointment of a joint committee with these other local authorities).
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions, which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities
- (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 Members to a joint committee from outside the Cabinet in the following circumstances -
  - ◆ the joint committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral ward which is wholly or partly contained within the area;
  - ◆ the joint committee is between Cambridgeshire County Council and the Council and relates to functions of the executive of the County Council. (In such cases, the executive of the County Council may appoint to the joint committee any Councillor who is a member for an electoral division which is wholly or partly contained within Huntingdonshire.)

In both of these cases the political balance requirements will not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.
- ### **2.**
- The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority. The Council may, upon a proposal by the Cabinet, delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

3. **CONTRACTING OUT**

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

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## ARTICLE 12 - OFFICERS

### 1. TERMINOLOGY

In this Article use of the word "officers" means all employees and staff engaged by the Council to carry out its functions and includes those engaged under short-term, agency or other non-employed situations.

### 2. MANAGEMENT STRUCTURE

- (a) **General** - the Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** - the Council will engage persons for the following posts, who will be designated chief officers:-

Post	Functions and areas of responsibility
Head of Paid Service	<p>Overall corporate management and strategic responsibility (including overall management responsibility for all officers).</p> <p>Provision of professional advice to all in the decision making process.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>
Corporate Director (Services)	Resources, Customer Services and Operations.
Corporate Director (Delivery)	Development, Community, Leisure and Health.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer** - the Council will designate the following posts as shown:-

Post	Designation
Managing Director	Head of Paid Service
Corporate Director (Services)	Monitoring Officer
Head of Resources	Chief Finance Officer and Section 151 Officer

Such posts will have the functions described in paragraphs 3 - 5 below.

- (d) **Structure** - the Head of Paid Service will determine and publicise a description of the overall departmental structure of

the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

### 3. FUNCTIONS OF THE HEAD OF PAID SERVICE

- (a) **Discharge of functions by the Council** - the Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **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.

### 4. FUNCTIONS OF THE MONITORING OFFICER

- (a) **Maintaining the Constitution** - the Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, officers and the public.
- (b) **Ensuring Lawfulness and Fairness of Decision Making** - after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee** - the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Proper Officer for Access to Information** - the Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions, and relevant officer reports and background papers are made publicly available as soon as possible.
- (e) **Advising whether Executive Decisions are within the Budget and Policy Framework** - the Monitoring Officer will advise whether executive decisions are in accordance with the budget and policy framework and (after consultation with the Chief Finance Officer) the budgetary framework.
- (f) **Providing Advice** - the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

- (g) **Restrictions on Posts** - the Monitoring Officer may not be the Chief Finance Officer or the Head of Paid Service.

## 5. FUNCTIONS OF THE CHIEF FINANCE OFFICER

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making** - after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs** - the Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **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.
- (d) **Providing Advice** - the Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give Financial Information** - the Chief Finance Officer will provide financial information to the media, members of the public and the community.

## 6. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER

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

## 7. CONDUCT

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## 8. EMPLOYMENT

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **ARTICLE 13 - DECISION MAKING**

### **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 3 of this Constitution.

### **2. PRINCIPLES OF DECISION MAKING**

All decisions of the Council will be made in accordance with the following principles:-

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) the consideration of alternative options; and
- (g) an explanation of the reasons for the decision.

### **3. TYPES OF DECISION**

#### **(a) Decisions Reserved to Full Council.**

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

#### **(b) Key Decisions**

A 'key decision' means an executive decision taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or an officer or under joint arrangements which is likely -

- (i) to 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
- (ii) to be significant in terms of its effects on communities living or working in the area comprising two or more wards.



In determining the meaning of 'significant', regard shall be had to any guidance for the time being issued by the Secretary of State. A key decision is any decision which would if implemented fall in any of the following categories –

- it is not in accordance with a policy, plan or strategy which forms part of the policy framework approved by the Council;
- it may result in the adoption of any additional policy, plan or strategy by the Council;
- it is not in accordance with the budget approved by the Council;
- it may increase financial commitments in future years above existing budgetary approvals;
- it will result in any of the following:
  - the appointment of additional permanent staff for which there is no budget provision;
  - the acquisition or disposal of land or property with a value in excess of £2,000,000;
  - any budgetary virement in excess of the limits set out in the Code of Financial Management in Part 4 of this Constitution;
  - any statutory order or scheme if it requires, either directly or as a result of objections, the approval of a Minister of the Crown;
  - the initiation of local legislation or byelaws;
  - if it is likely to be of significance in the opinion of the decision taker

Any decision to incur expenditure or savings or realignment of expenditure in excess of £200,000 shall be treated as significant for these purposes. However a decision to invite a tender or award a contract shall not be treated as a key decision insofar as the purpose of the contract is to fulfil the intention of any policy or scheme included in the policy framework or budget or involves a continuation of an existing policy or service standard.

The decision taker shall inform the Monitoring Officer of all decisions (including those with a financial value below £200,000) about which he/she has any doubt as to whether the decision may or may not be significant for the purposes of this paragraph and the Monitoring Officer may determine the decision as a key decision.

A decision taker may only make a key decision in accordance with the requirements of the Procedure Rules set out in Part 4 of this Constitution.

**4. DECISION MAKING BY THE FULL COUNCIL**

The Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**5. DECISION MAKING BY THE CABINET**

The Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**6. DECISION MAKING BY OVERVIEW AND SCRUTINY PANELS**

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

**7. DECISION MAKING BY OTHER COMMITTEES AND PANELS ESTABLISHED BY THE COUNCIL**

Other Council committees and panels will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as applied to them.

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**ARTICLE 14 –  
FINANCE, CONTRACTS AND LEGAL MATTERS**

**1. FINANCIAL MANAGEMENT**

The management of the Council's financial affairs will be conducted in accordance with the Code of Financial Management set out in Part 4 of this Constitution.

**2. CONTRACTS**

Every contract made by the Council will comply with the Code of Procurement set out in Part 4 of this Constitution.

**3. LEGAL PROCEEDINGS**

The Legal Services Manager or their nominated representative 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 he/she considers that such action is necessary to protect the Council's interests and in particular, to ensure that all procedural and evidential requirements are carried out in connection therewith.

**4. COMMON SEAL OF THE COUNCIL**

The Common Seal of the Council shall be kept in a safe place in the custody of the Legal Services Manager.

The Seal shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of the Cabinet, committee or sub-committee to which the Council have delegated their powers in this behalf, or by a decision of an officer to which the Council, Cabinet, committee or panel similarly have delegated their powers.

The Head of Paid Service or the Legal Services Manager or their nominated representatives shall attest every document which is being sealed and any entry of the sealing of every document to which the Common Seal has been attached shall be made and consecutively numbered in a book to be provided for that purpose and each entry duly attested. The book shall be open for inspection by every member of the Council.

**5. SIGNING OF CONTRACTS AND AUTHENTICATION OF DOCUMENTS FOR LEGAL PROCEEDINGS**

All contracts required to be entered into in writing by the Council as provided in the Code of Procurement shall be signed by two officers and the Head of Paid Services and the Legal Services Manager or nominated representative shall be authorised as the agent of the Council to sign such contracts. (This article does not apply where a Chief Officer has authority to issue a written order in accordance with the Council's Code of Financial Management or Code of Procurement.)

Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Head of Paid Service or the Legal Services Manager or their nominated representative unless any enactment otherwise requires or authorises, or the Council gives the necessary authority to some other person for the purpose of such proceedings.

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**ARTICLE 15 -  
REVIEW AND REVISION OF THE CONSTITUTION**

**1. DUTY TO MONITOR AND REVIEW THE CONSTITUTION**

The Head of Paid Service and Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The Monitoring Officer will ensure that the Constitution is kept up to date and has the delegated power to ensure that it is amended to reflect changes in legislation and fact, and decisions of the Council and the Executive

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**ARTICLE 16 -  
SUSPENSION, INTERPRETATION AND  
PUBLICATION OF THE CONSTITUTION**

**1. SUSPENSION OF THE CONSTITUTION**

- (a) **Limit to Suspension** - the Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend** - a motion to suspend any Rules will not be moved without notice unless at least two thirds of the whole number of Councillors are 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.
- (c) **Rules Capable of Suspension** - the following Rules may be suspended in accordance with this Article - the Council Procedure Rules.

**2. INTERPRETATION**

The ruling of the Chairman of the Council, after consultation with the Monitoring Officer or his/her nominee, as to the construction or application of this Constitution or as to any proceedings of the Council should not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

**3. PUBLICATION**

- (a) Each member of the Council, upon delivery of the individual's declaration of acceptance of office on the member first being elected to Council, will be provided with the details of where to view a copy of the Constitution on the Council's website by the Monitoring Officer.
- (b) Copies of this Constitution will be available for inspection on the Council's website, and at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

## **Part 3**

# **Responsibility for Functions**

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## **RESPONSIBILITY FOR FUNCTIONS**

### **1. Scheme of delegation to committees**

#### **Introductory Notes**

All functions that are not specifically reserved in this constitution to Council, a committee or the Cabinet (formerly known as the Executive) are delegated to Officers in accordance with the Officer Scheme of Delegation set out in this Constitution.

A committee or subcommittee may delegate some of its functions to officers and if so these will be recorded by the Monitoring Officer

The terms and reference of a committee may provide that a matter need only be referred to the committee if objections or representations have been received or if, for example, the matter or the proposed decision will have a significant, major or material impact or might represent a significant or major departure from certain plans of policies.

In these instances there is discretion to be exercised as to what is major, significant, material or relevant and so whether a particular matter needs to be referred to a committee or not. That discretion is to be exercised by the relevant Corporate Director (or their authorised representative) in consultation with the relevant committee chairperson.

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## 1. Responsibility for Local Choice Functions

Function	Decision Making Body <sup>*</sup>	Delegation of Functions <sup>**</sup>
Appeals against disciplinary action against Corporate Directors and Service Managers and appeals in respect of grievances of Corporate Directors and Service Managers	Appeals Sub-Committee (C)	None
Functions relating to contaminated land.	Council (C)	Head of Community
Functions relating to the control of pollution or the management of air quality	Licensing and Protection Committee (E)	Head of Community
Service of an abatement notice in respect of a statutory nuisance	Licensing and Protection Committee (E)	Head of Community
Passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area	Licensing and Protection Committee (E)	None
Inspection of the Authority's area to detect statutory nuisances	Licensing and Protection Committee (E)	Head of Community
Investigation of complaints as to the existence of statutory nuisances	Licensing and Protection Committee (E)	Head of Community
Obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Cabinet (E)	Head of Development
Obtaining of information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to interests in land	Cabinet (E)	Heads of Service
Appointments to Outside Bodies and revocation of such appointments	Cabinet (E)	Executive Leader
The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.	Cabinet (E)	Managing Director and Heads of Service

\* 'C' denotes Council 'E' denotes Executive

\*\* Delegations to officers are as set out in the Scheme of Delegation to Officers

## 2. Responsibility for Council Functions

Committee/Panel and Membership	Functions	Delegation of Functions
<b>Council</b>	<p>In addition to the functions set out elsewhere in the Constitution</p> <ul style="list-style-type: none"> <li>• Exercise of the Council's functions in relating to parishes and parish councils under Part II of the Local Government &amp; Rating Act 1997</li> <li>• Exercise of powers on the following electoral matters:-               <ul style="list-style-type: none"> <li>○ Division of parliamentary constituencies and local government wards or electoral divisions into polling districts</li> <li>○ Approval of pilot schemes for local elections</li> <li>○ Making recommendations to the Electoral Commission in ward boundary reviews, electoral division reviews and parliamentary constituency reviews</li> </ul> </li> <li>• Any other matters relating to elections set out in Part D of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000</li> <li>• Making and amending Standing Orders, Standing Orders Relating to Contracts and Financial Regulations.</li> <li>• Appointment of Head of Paid Service, the Monitoring Officer and the Section 151 Officer are reserved to full Council on the recommendation of the Senior Officers Committee.</li> <li>• Appointment of Corporate Directors is delegated to the Senior Officers Committee unless the post includes the duties of either the Monitoring Officer or the Section 151 Officer in which case it is reserved to Council.</li> <li>• Designation of officers as the Monitoring Officer and Section 151 Officer</li> <li>• Appointment of Electoral Registration Officer and Returning Officer for Local Government Elections</li> </ul>	<p>None</p> <p>None</p> <p>Returning Officer</p> <p>None</p> <p>Appointment of other staff is delegated to Head of Paid Service</p> <p>None</p>
	<ul style="list-style-type: none"> <li>• Appointment of officers for particular purposes("proper officers")</li> <li>• Determining the scheme for travelling and subsistence allowances, conference attendance allowances and members scheme of expenses</li> </ul>	<p>Managing Director</p> <p>None</p>

Committee/Panel and Membership	Functions	Delegation of Functions
	<ul style="list-style-type: none"> <li>Approve the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer following the recommendation of such a dismissal by the Senior Officers Committee of the Council appointed for that purpose.</li> </ul>	None
<p><b>Development Management Committee</b></p> <p>16 members of the Council including at least 1 member of the Cabinet</p>	<p>Functions relating to town and country planning and development control as specified in Schedule 1 Part A to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Functions Regulations).</p> <p>Powers relating to the protection of important hedgerows and the preservation of trees</p> <p>Powers relating to the regulation of the use of highways and public rights of way as set out in the Functions Regulations.</p>	See scheme of delegation to Officers
<p><b>Licensing Committee</b></p> <p>12 members of the Council including at least 1 member of the Cabinet (who shall be the same as the membership of the Licensing and Protection Committee).</p>	<p>Functions of the Council as a Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 (with the exception of those functions which are reserved to Council), and miscellaneous matters as set out in the Functions Regulations.</p> <p>To discharge the functions of the The Scrap Metal Dealers Act 2013 (Relevant Sub-Committee to be convened when appropriate to deal with contested applications and hearings.)</p> <p>Determining the amount of any charge to be made for any approval, consent, licence, permit or registration within the terms of reference of the Committee.</p> <p>In relation to the functions set out above, determining whether and in what manner to enforce any failure to comply with any approval, licence, permission or registration granted by the Committee (or an officer acting under delegated powers) or any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.</p>	See Scheme of Delegation to Officers
<p><b>Licensing Sub-Committee</b></p> <p>The sub committee shall consist of 3 members - drawn from the Licensing Committee</p>	<p>The Licensing Committee has delegated the following functions to a Sub-Committee in accordance with the Licensing Act 2003 -</p> <p>To determine an application for the renewal of a personal licence where an objection notice is</p>	See scheme of delegation to Officers

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>submitted by the Police (S121)</p> <p>To revoke a personal licence (S124)</p> <p>To determine an application for a premises licence where relevant representations are received (S18)</p> <p>To determine an application for a provisional statement where relevant representations are received (S31)</p> <p>To determine an application to vary a premises licence where relevant representations are received (S35)</p> <p>To determine an application to vary a premises licence in relation to a premises supervisor where relevant representations are received (S39)</p> <p>To determine an application to transfer a premises licence where relevant representations are received (S44)</p> <p>To cancel an interim authority notice where an objection is submitted by the Police (S48)</p> <p>To determine an application for the review of a premises licence (S52)</p> <p>To determine a review of a premises licence following a closure order (S167)</p> <p>To determine an application for a club premises certificate where relevant representations are received (S72)</p> <p>To determine an application to vary a club premises certificate where relevant representations are received (S85)</p> <p>To determine an application for the review of a club premises certificate (S88)</p> <p>To issue a counter notice to a temporary events notice where an objection notice is submitted by the Police (S105)</p> <p>To determine applications for Premises Licences in respect of which representations have been</p>	

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>made (and not withdrawn) (S163)</p> <p>To attach a condition to a Premises Licence or exclude a default condition (S163)</p> <p>To determine an application to vary a Premises Licence in respect of which representations have been made (and not withdrawn) (S187)</p> <p>To determine an application for a transfer of a Premises Licence in respect of which representations have been made (and not withdrawn) (S188)</p> <p>To reinstate a lapsed Premises Licence in respect of which representations have been made (and not withdrawn) (S195)</p> <p>To review a Premises Licence and determine action following review (S201 and 202)</p> <p>To determine application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) (S204)</p> <p>To issue a counter notice in response to Temporary Use Notice (S224)</p> <p>To make an Order to remove exemptions from specified premises in respect of which representations have been made (and not withdrawn) (S284)</p> <p>To determine an application for a Club Gaming Permit and a Club Machine Permit and for renewal of a permit in respect of which representations have been made (and not withdrawn) (Schedule 12 – Para 5, 10 and 24)</p> <p>To determine an application for the variation of a Club Gaming Permit and Club Machine Permit where representations have been made (and not withdrawn) (Para 15)</p> <p>To cancel a Club Gaming Permit and Club Machine Permit in respect of which representations have been made (and not withdrawn) (Para 21)</p> <p>To cancel Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn) (Para 16)</p> <p>To determine an application for a personal licence with unspent convictions (S120)</p>	

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>To determine an objection notice from the Police in response to convictions after the grant of a personal licence (S124)</p> <p>To decide to object when the local authority is a consultee and not the relevant authority considering the application (S13 (4)(g))</p>	
<p><b>Standards Committee</b></p> <p><i>If the decision is to retain the Standards Committee</i></p> <p>8 members of the Council to include 1 member of the Executive. 2 parish councillors appointed as co-opted and non-voting members of the Committee to represent the interests of town and parish councils in Huntingdonshire.</p>	<p>The promotion and maintenance of high standards of conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Codes of Conduct for Members</p> <p>To monitor and advise the Council about the operation of its Code of Conduct for Members in the light of best practice and changes in the law.</p> <p>To ensure that all members and co-opted members of the Council have access to training in all aspects of the Members Code of Conduct, that this training is actively promoted and that members are aware of the standards expected from them under the Code.</p> <p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Localism Act 2011.</p> <p>To advise the Council on the adoption or revision of a Protocol for Member/Officer relations.</p> <p>To advise the Council on the adoption of a Code of Conduct for Planning and monitoring operation of the Code. The promotion and maintenance of high standards of conduct within the town and parish councils within Huntingdonshire</p> <p>Determination of the Council's Customer Feedback Procedure, monitoring compliance with the procedure, compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any action to be taken as a consequence. <i>(if Standards Committee merged with CGP approval of procedure will be Cabinet function – performance monitoring to be through Finance and Performance Overview &amp; Scrutiny Panel)</i></p> <p>Consideration of reports by the Local Government Ombudsman including compensatory payments</p> <p>To review the District and Parish electoral arrangements including boundaries</p> <p>Matters relating to the powers of a Parish Council, number of Parish Councillors and new Parish</p>	<p>None</p>

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>Councils and Parish Wards</p> <p>District and District Ward boundaries arising from any review.</p>	
<p><b>Employment Committee</b></p> <p>8 members of the Council including at least 1 member of the Cabinet</p>	<p>To discharge the strategic overview of the people management and workforce decisions and issues within the Council.</p> <p>Specifically to:-</p> <ul style="list-style-type: none"> <li>• conduct research and analyse employment practice within the Council and elsewhere taking account of best practice;</li> <li>• liaise with and where necessary to request information and reports from the Council's Joint Liaison Group to support their analysis;</li> <li>• report to/make recommendations to Council and/or Cabinet in relation to the employment and workforce practices within the Council; and</li> </ul>	<p>See scheme of delegation to Officers</p>
<p><b>Corporate Governance Committee</b></p> <p><b>If the decision is to retain a standards committee</b></p> <p>8 members of the Council</p>	<p>To discharge the functions of the Council in relation to the Corporate Governance of the Council and to be the Council's "Audit" Committee.</p> <p>These responsibilities include:</p> <ol style="list-style-type: none"> <li>1. Governance - Regularly reviewing the Council's Code of Corporate Governance and recommending any changes to the Council and approving the annual governance statement and reviewing the achievement of any outstanding improvements.</li> <li>2. Ensuring there are effective arrangements for the management of risk across the Council.</li> <li>3. Ensuring there are effective arrangements for the system of internal audit of the Council including: <ul style="list-style-type: none"> <li>• considering a regular review of its effectiveness</li> <li>• reviewing and approving the internal audit charter;</li> <li>• approving internal audit plans and receiving reports on progress in delivery.</li> </ul> </li> <li>4. Receiving and considering external audit reports including the adequacy of management response to issues identified.</li> <li>5. Final Accounts - Approving the accounting policies, statement of accounts and considering any matters arising from the external audit.</li> </ol>	<p>See Scheme of Delegation to Officers</p>

Committee/Panel and Membership	Functions	Delegation of Functions
<p><b>Corporate Governance Committee to also include the following if Standards Committee remit is to be incorporated in CGP</b></p> <p>12 members of the Council</p>	<ol style="list-style-type: none"> <li>6. The promotion and maintenance of high standards of conduct within the Council</li> <li>7. To advise the Council on the adoption or revision of its Codes of Conduct for Members</li> <li>8. The promotion and maintenance of high standards of conduct within the town and parish councils within Huntingdonshire</li> <li>9. To advise the Council on the adoption or revision of a Protocol for Member/Officer relations.</li> <li>10. To advise the Council on the adoption of a Code of Conduct for Planning and monitoring operation of the Code. (See Article 9 for further detail.)</li> <li>11. Consideration of reports by the Local Government Ombudsman including compensatory payments</li> <li>12. Consider the periodic electoral review and review District and Parish electoral arrangements including boundaries and other electoral matters</li> </ol>	
<p><b>Standards Sub-Committee To include Independent Person and Parish Council reps</b></p>	<p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Localism Act 2011.</p>	
<p><b>Senior Officers Committee</b> comprises 4 Members of the Council (and the relevant Executive Councillor in relation to the post to be filled).</p>	<p>To manage the appointment and dismissal of, and take disciplinary action against senior officers* in accordance with the Officer Employment Procedure.</p> <p>Specifically to:</p> <ul style="list-style-type: none"> <li>• appoint senior officers including starting salary and remuneration packages;</li> <li>• dismiss senior officers;</li> <li>• suspend senior officers;</li> <li>• undertake hearings and take disciplinary action in the case of senior officers; and</li> <li>• set senior officer salaries and determine pay rises, bonuses and other benefits</li> </ul> <p>in accordance with the Officer Employment Procedure Rules.</p>	



Committee/Panel and Membership	Functions	Delegation of Functions
	<p>Such terms of reference to be reviewed on an annual basis by the Panel.</p> <p>* For these purposes, senior officers means Head of Paid Service, Managing Director, Monitoring Officer, S151 Officer and Corporate Directors.</p>	
<p><b>Senior Officers Committee Independent Panel</b></p> <p>At least two independent persons and at least one member of the Cabinet. The panel membership must be agreed 20 working days prior to a meeting</p>	<ul style="list-style-type: none"> <li>• To arrange for an investigation into proposed disciplinary action against a Chief Officer, Monitoring Officer or Chief Finance Officer.</li> <li>• To offer advice, views or recommendations to Council on the proposed course of action, including any proposal for dismissal on the grounds of conduct, capability or some other substantial reason.</li> </ul>	

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### 3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Who is Responsible?	Functions	Onward Limit of Delegations
Executive Leader	All functions of the Council which are not the responsibility of any other part of the Council as defined in the Constitution.	Cabinet and Executive Councillors. Delegations to Officers as set out in the scheme of delegations to Officers
Executive Leader	Appointment of Deputy Executive Leader and members of the Cabinet and allocations of executive responsibilities	
Deputy Executive Leader	All functions of Executive Leader in his/her absence or that position being vacant	
Cabinet Membership as appointed by Executive Leader	Subject to the role of the Executive Leader as set out above and the operation of the call-in mechanism, to collectively determine all matters which are within the Council's Policy Framework and Budget other than those reserved by this Constitution to the Council or various committees of the Council.	Delegations to Officers as set out in the scheme of delegation to Officers
Executive Councillors	Functions as may be delegated by the Executive Leader or Cabinet as specified in Part 3 of the Constitution	Delegations to Officers as set out in the scheme of delegation to Officers
Treasury and Capital Management Group  Membership: Executive Leader, Deputy Executive Leader and Executive Councillor - Resources	To review the Council's Treasury Management Activity and Capital Programme. To review, support and guide the development and operation of the Commercial Investment Strategy.  Decisions on disposal or acquisition of Land and property with values between £500,000 and £2,000,000	Delegations to Officers as set out in the scheme of delegation to Officers
Licensing and Protection Committee  12 members of the Council including at least 1 member	Functions relating to licensing and registration as set in the Functions Regulations. Taxi, food and miscellaneous licensing, street trading, environmental health, anti-social behaviour, and community safety  Functions relating to Health and Safety under any "relevant statutory provisions" within the meaning of Part I of the Health and Safety at	Delegations to Officers as set out in the scheme of delegation to Officers

<b>Who is Responsible?</b>	<b>Functions</b>	<b>Onward Limit of Delegations</b>
of the Cabinet	<p>Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.</p> <p>The approval of the Food Safety service plan</p> <p>Determining the amount of any charge to be made for any approval, consent, licence, permit or registration, or other activity for which the Council as the ability to levy a legal charge within the terms of reference of the Committee.</p>	
<p>Licensing and Protection Sub-Committee</p> <p>The sub committee shall consist of 4 members, drawn from the Licensing and Protection Committee</p>	<p>The Licensing and Protection Committee has delegated the following functions to a Sub-Committee.</p> <p>The determination of applications, renewals, suspensions and revocations of licences regarding Hackney Carriage and private hire vehicles, drivers and operators</p>	<p>Delegations to Officers as set out in the scheme of delegation to Officers</p>

#### **4. SCHEME OF DELEGATIONS TO OFFICERS**

- 4.1 The authority for delegating functions to the Cabinet, Committees, Panels and Officers is contained in Section 101 of the Local Government Act 1972 and Section 14 of the Local Government Act 2000 and these sources have generally been quoted except where it was convenient or considered helpful to quote the source of the power delegated. The authority for the delegation of functions by the Licensing Committee is contained in Sub Section 10 (1) of the Licensing Act 2003. Certain other delegations are implicit in Standing Orders, the Code of Financial Management and Code of Procurement. The date of delegation which is given in each case is the original date of delegation by a Committee or by the new date of delegation by the Council, Cabinet, Committee and Panels as a result of the introduction of the Cabinet style of executive administration.
- 4.2 In the case of absence by an appropriate Executive Councillor, the requirement for an Officer to consult before carrying out any action or function shall be replaced by a requirement to consult with the Executive Leader of the Council.
- 4.3 In the case of absence by the Executive Leader of the Council, the requirement for an Officer to consult before carrying out any action or function shall be replaced by a requirement to consult with the Executive Deputy Leader of the Council.
- 4.4 The term appropriate executive councillor means the Member appointed by the Cabinet to the position of executive councillor for those functions relative to the requirement for consultation to take place.
- 4.5 *(Regarding the functions of the 'Proper Officer' and unless otherwise referred to in the Scheme, the Head of Paid Service or in her absence, the Monitoring Officer shall be appointed as the Proper Officer for the purposes of Section 270(3) of the Local Government Act 1972 and in relation to any other statute or matters indicated herein.)*

## **5. COUNCIL FUNCTIONS - SCHEME OF DELEGATION BY MANAGING DIRECTOR (AS HEAD OF PAID SERVICE) TO OFFICERS OF COUNCIL FUNCTIONS AND LOCAL CHOICE FUNCTIONS WHICH ARE NOT THE RESPONSIBILITY OF THE EXECUTIVE.**

### **5.1 GENERAL PRINCIPLES**

- a) The Managing Director has delegated to her all the powers of the Council other than those reserved to full Council or delegated to Committees and has in turn delegated to officers in accordance with the scheme set out at Annex A below.
- b) This scheme is made by the Managing Director (as Head of Paid Service). It delegates to officers the powers and duties of the Council which, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 or any amendments to them (the "Regulations") are not to be the responsibility of the Council's Cabinet; together with those local choice functions which are not the responsibility of the Cabinet.
- c) This scheme is made, under section 101(1)(a) of the Local Government Act 1972. It is made in accordance with section 151 of that Act, and all other provisions relating to functions held by the Council; and shall be construed in accordance with any legislation amending, or substituted for, any of those provisions, or any legislation having a similar purpose or made for similar purposes.
- d) This scheme does not delegate to officers:
  - i. any matter reserved to full Council;
  - ii. any matter which by law may not be delegated to an officer;
  - iii. any matter expressly reserved to a committee by the Council's Standing Orders or Financial Regulations, or withdrawn from delegation by this scheme or by a committee;
  - iv. any power to change fees, charges or concession policies;
  - v. any power to make a decision on permanent savings in a budget;
  - vi. any power to make an order for the compulsory acquisition of land;
  - vii. any power to acquire land in advance of requirements;
  - viii. any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.
- e) In respect of any matter falling within the parameters of this scheme, the Managing Director may in writing make such detailed delegations to officers concerning functions and activities within a given area of responsibility ("internal delegations") as he considers appropriate.
- f) The Managing Director may, in writing, delegate any function of the Council (or local choice function not the responsibility of the Executive) which has been

delegated to him/her, and which is not otherwise delegated under this scheme, and he may vary in writing any delegation made under this scheme.

- g) This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, present and future, within those descriptions, and all powers and duties incidental to that legislation, as well as authorising the affixing of the Common Seal.
- h) This scheme includes an obligation on officers to keep Members of the Council properly informed of activity arising within the scope of these delegations.

## 5.2 GENERAL LIMITATIONS

- a) An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.
- b) Any exercise of delegated powers shall be subject to any policy framework approved by the Council from time to time, including the authority's employment policies and disciplinary procedures, equal opportunities policies, and any service delivery policies; and shall be guided by relevant Codes of Conduct or protocols produced or adopted from time to time by the Council (including any Code or protocol which has been included within the Council's constitution) and the Corporate Plan.
- c) Any exercise of delegated powers shall be subject to:
  - i. any statutory restrictions
  - ii. the Council's Standing Orders
  - iii. the Financial Regulations
  - iv. the Code of Procurement
  - v. the provisions generally of Part 4 of the Constitution
- d) In exercising delegated powers, officers shall not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the Financial Regulations or the Code of Procurement.

## 5.3 DELEGATIONS TO OFFICERS

- a) The functions or activities listed in Annex A to this scheme and varied from time to time are hereby delegated to the officers in the posts named in Annex A.
- b) **Limitation of delegations** - The powers delegated to officers under this scheme do not include any power to take a decision which is properly a matter for the Council, or a committee or sub-committee. Officers are, in the context of this scheme, responsible for the management of their services, the provision of advice to the Council and Members, and the implementation of Council policies and decisions. A decision which an officer takes, under a delegation made by or under this scheme, must:
  - i. implement a policy previously approved or decision previously taken, by the Council, or a committee or sub-committee (or by or with the Executive); or
  - ii. facilitate, or be conducive or incidental to, the implementation of a policy or decision previously approved, or decision;
  - iii. relate to the management of the human, material or financial resources made available for the functions for which the Council is responsible;

- iv. any officer exercising powers or duties in pursuance of full sub- delegation will be politically restricted under section 2(1)(g) of the Local Government and Housing Act 1989.

#### **5.4 FURTHER PROVISIONS**

##### *a) Individual Delegations*

An officer to whom a delegation has been made by, or in accordance with, this scheme may (subject to the terms of any applicable internal delegation) further delegate in writing all or any of their delegated functions to another officer (described by name and post), either fully or under the general supervision and control of the delegating officer. Delegations made under this sub-paragraph (“individual delegations”) may be made across service boundaries.

##### *b) Register of Internal and Individual Delegations*

Subject to paragraph 5.4c below, all internal delegations made under paragraph 5.1 above, and individual delegations made under paragraph 5.4a above, shall be recorded in a register kept by the Monitoring Officer in accordance with section 100G of the Local Government Act 1972. (See also paragraph 5.4e below).

##### *c) Continuation of existing delegations*

A delegation to an officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.

##### *d) Deemed delegations*

Where in respect of a given function or activity, no delegation is in effect, and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively shall be deemed to have been delegated to that postholder.

##### *e) Other provisions*

- i. All action taken under the terms of these delegations (and not falling within the description of an internal delegation in paragraph 1d above, or an individual delegation in paragraph 5.4a above) shall be properly documented in accordance with arrangements approved by the Monitoring Officer.
- ii. It shall always be open to a senior officer to consult the appropriate Chairman of a Committee, or other appropriate Member, on the exercise of a delegated function; or, not to exercise a delegated function but to refer the matter back to a sub-committee (or other Member grouping), Committee or the Council.
- iii. In this scheme, “officer” means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.

- iv. Where a function or activity has been specifically delegated by or under this scheme to an officer, that function or activity shall not be exercised by another officer without the consent of the former, other than in circumstances of the death or incapacity of that officer or, in an emergency, where the officer to whom the delegation was made is absent or otherwise unavailable.
- v. An authority delegated to officers includes management of the human and material resources made available for the service/portfolio areas and any function concerned; to the extent of that authority, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.
- vi. In each case, a delegated authority excludes any determination of policy, any exception to policy, or of any budget by the officer concerned.

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## **Annex A – Council Functions**

### **Delegations to Officers**

#### **MANAGING DIRECTOR**

1. To be Head of the Paid Service.
2. To be the Electoral Registration Officer and Returning Officer for District Council Elections.
3. Within the overall resources allocated by the Council and in direct support of the Council's objectives, to act on behalf of the Council on all matters including those which have been delegated to any other Officer **PROVIDED THAT**
  - 3.1 the Managing Director may not exercise a power which is reserved by statute to another Officer;
  - 3.2 before exercising the power of another Officer, the Managing Director shall consult with that Officer if available;
  - 3.3 the Managing Director when exercising any powers may authorise the incurring of expenditure in an emergency even if there is no specific provision in the budget of the Council.
4. In consultation with the Executive Leader or in their absence with the Deputy Leader to act in a case of urgency in respect of any matter affecting the Council/Cabinet respectively, subject to a report on the circumstances being made to the next Council/Cabinet meeting.
5. To keep under constant review the needs of the District and its community in relation to all those services provided by the Council and to take all such action which in his/her judgement is necessary to ensure that those needs are met within the framework of any policies agreed by the Council.
6. To lead on strategies for change whether from within the authority or externally influenced.
7. To make arrangements for dealing with any matter raised by the Government or local authority association calling for a view or decision by the Council.
8. To be responsible for the overall organisational structure of the Council.
9. To be responsible via the Corporate Director (Delivery) and Corporate Director (Services) for determining and issuing guidance to Officers for the management of human resources, including recruitment, training, conditions of service, staff development/appraisal, disciplinary matters, health and safety, employee welfare and any other matter concerning staff.
10. To ensure the provision of professional advice to all parties in the decision-making process.
11. Together with the Monitoring Officer to be responsible for a system of record-keeping for all local authority decisions

12. To represent the Council on partnership and other bodies.
13. To be responsible for the health and safety of all employees of the District Council.
14. To sign any document on behalf of the Council and to witness affixation of the Council's Common Seal to any document.
15. In consultation with appropriate Members of the Council to make appointments to member bodies forming part of the Council's official structure and to fill casual vacancies on member bodies forming part of the Council's approved structure in accordance with Sections 15-17 of the Local Government and Housing Act 1989???
16. To be the Proper Officer of the Council, except where legislation or arrangements names another Officer.

The following functions or activities are delegated by the Managing Director to the following officers:

**NB:** References below to "the Regulations" are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No. 2853).

#### **CORPORATE DIRECTOR (DELIVERY)**

1. To exercise the functions of the Council in relation to common land, and town and village greens, as specified in paragraphs 51-53 of Part Two of Schedule 1 (Other Miscellaneous Functions) of the Regulations
2. To exercise all the functions of the Council relating to town and country planning and development control specified in paragraphs 5-23 of Schedule 1A (Functions relating to town and country planning and development control) of the Regulations, except for the following:
  - i. determination of planning applications, or proposals in accordance with the development plans, where objections or contrary observations are raised by other local authorities (including parish councils or parish meetings), statutory consultees, persons adversely affected by the proposals (provided that the objection or observation is on planning grounds and the objection or observation has not been previously considered and discounted by the authority), or an appropriate local Member;
  - ii. determination of minerals and waste applications requiring Environmental Impact Assessments;
  - iii. determination of applications for District Council development where objections are raised to the proposals;
  - iv. approval of major departures from development plans arising from planning applications and proposals.
3. To exercise the licensing and registration functions of the Council as specified in paragraphs 22, 26- 27, 31, 43-46, and 56 of Schedule 1B (Licensing and Registration Functions) of the Regulations.

4. To exercise the functions of the Council in relation to the approval of premises for the solemnisation of marriages, as specified in paragraph 36 of Schedule 1B (Licensing and Registration Functions) of the Regulations.

#### **CORPORATE DIRECTOR (SERVICES)**

1. To be the Monitoring Officer in accordance with Local Government and Housing Act 1989.
2. To be the Proper Officer of the Council, except where legislation or the Scheme of Delegation names another postholder, and to authorise the making and issue of any formal documents.

#### **HEAD OF RESOURCES**

1. To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 Section 114 of the Local Government Finance Act 1988 and Regulation 5 of the Accounts and Audit Regulations 2003.
2. To maintain an adequate and effective system of internal audit in accordance with Financial Regulations.
3. To be the Proper Officer under section 115 of the Local Government Act 1972.

## 6. EXECUTIVE FUNCTIONS - SCHEME OF DELEGATION, BY MANAGING DIRECTOR TO OFFICERS, OF EXECUTIVE FUNCTIONS AND LOCAL CHOICE FUNCTIONS WHICH ARE THE RESPONSIBILITY OF THE EXECUTIVE LEADER AND CABINET

### 6.1 GENERAL PRINCIPLES

- a) The Managing Director has delegated to her all the powers of the Executive other than those reserved to the Cabinet by statute or this Constitution and has in turn delegated to officers in accordance with the scheme set out at Annex B below. In the event of the Council being without a Leader the Managing Director has delegated authority to exercise any necessary executive powers until a new Leader is elected.
- b) This scheme is made by the Managing Director of the authority. It delegates powers and duties in relation to executive functions and local choice functions exercisable by the Executive to officers. It may be read with Part 3 of the authority's Constitution, which delegates powers and duties in relation to executive functions and local choice functions to the Executive Leader and Cabinet. Where their functions are common, Members of the Executive and officers exercise those functions as a partnership, subject to their differing roles (for example, in decision-making).
- c) This scheme is made, as part of the executive arrangements of the authority under section 15(2)(d) of the Local Government Act 2000. It is made in accordance with that section and with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000 No. 2851). It shall be construed in accordance with any legislation amending, or substituted for, either of those provisions; or any legislation having a similar purpose or made for similar purposes.
- d) In respect of any matter falling within the parameters of this scheme, the Managing Director may in writing make such detailed delegations to officers concerning functions and activities within a given area of responsibility (**internal delegations**) as he considers appropriate.
- e) The Managing Director may in writing delegate any executive function which has been delegated to him/her, and which is not otherwise delegated under this scheme. He/she may vary in writing any delegation made under this scheme.
- f) This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, present and future, within those descriptions, and all powers and duties incidental to that legislation, as well as authorising the affixing of the Common Seal.
- g) This scheme includes an obligation on officers to keep Members properly informed of activity arising within the scope of these delegations.

### 6.2 GENERAL LIMITATIONS

- a) An Officer, in exercising delegated powers, shall consult other appropriate Officers and shall have regard to any advice received.
- b) Any exercise of delegated powers shall be subject to any policy framework approved by the Council, or the policies approved by the Cabinet from time to time, including the authority's employment policies and disciplinary procedures, equal opportunities policies, and any service

delivery policies; and shall be guided by relevant Codes of Conduct or protocols produced or adopted from time to time by the authority (including any Code or Protocol which has been included within the authority's Constitution) and the Corporate Plan.

- c) Any exercise of delegated powers shall be subject to any statutory restrictions, and to the provisions of Part 4 of the Constitution.
- d) In exercising delegated powers, Officers may not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the Financial Regulations and Contracts Standing Orders.

### **6.3 DELEGATIONS TO OFFICERS**

a) The functions or activities listed in the Annex to this Scheme of Delegation, and as varied from time to time, are hereby delegated to the Officers in the posts named in the Annex.

b) *Limitation of delegations*

The powers delegated to Officers under this scheme do not include the power to take a key decision. Officers are responsible, in the context of this scheme, for the management of their services, the provision of advice to the Executive and to Members, and the implementation of Council and Executive policies and decisions. A decision which an Officer takes, under a delegation of an executive function, must:

- i. implement a policy previously approved, or decision previously taken, by the Cabinet or a Cabinet Member; or by or with the Council, or a committee or sub-committee; or
- ii. facilitate, or be conducive or incidental to, the implementation of a policy previously approved, or decision previously taken, by the Cabinet or a Cabinet Member; or by or with the Council, or a committee or sub-committee; or
- iii. relate to the management of the human, material or financial resources made available for the functions for which the Executive are responsible.

c) Any Officer exercising powers or duties in pursuance of full sub- delegation will be politically restricted under section 2(1)(g) of the Local Government and Housing Act 1989.

### **6.4 FURTHER PROVISIONS**

a) *Individual Delegations*

An Officer to whom a delegation has been made by, or in accordance with, this scheme may (subject to the terms of any applicable internal delegation) further delegate in writing all or any of their delegated functions to another Officer (described by name and post), either fully or under the general supervision and control of the delegating officer. Delegations made under this sub-paragraph ("individual delegations") may be made across service boundaries.

b) *Register of Internal and Individual Delegations*

Subject to paragraph 3c below, all internal delegations made under paragraph 6.1 above, and individual delegations made under paragraph 6.4a above, shall be recorded in a register kept by the Monitoring Officer. (See also paragraph 6.4e below).

*c) Continuation of existing delegations*

A delegation to an Officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.

*d) Deemed delegations*

Where in respect of a given function or activity, no delegation is in effect and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively shall be deemed to have been delegated to that postholder.

*e) Other provisions*

- i. All action taken under the terms of these delegations (and not falling within the description of an internal delegation in paragraph 1c above, or an individual delegation in paragraph 3a above) shall be properly documented in accordance with arrangements approved by the Monitoring Officer.
- ii. It is always be open to a senior officer to consult the appropriate Cabinet Member on the exercise of a delegated function; or, not to exercise a delegated function, but to refer the matter to the Cabinet or an appropriate Cabinet Member.
- iii. In this scheme, "Officer" means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.
- iv. Where a function or activity has been specifically delegated by or under this scheme to an Officer, that function or activity shall not be exercised by another officer without the consent of the former, other than in circumstances of the death or incapacity of that Officer or, in an emergency, where the Officer to whom the delegation was made is absent or otherwise unavailable.
- v. An authority delegated to Officers includes management of the human and material resources made available for the service/portfolio areas and any function concerned; to the extent of that authority, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another Officer.
- vi. In each case, a delegated authority excludes any determination of policy, or exceptions to policy, or of any budget by the officer concerned.

## **Annex B – Executive Functions - Delegations to Officers**

The following functions are delegated to the following officers by the Managing Director.

### **CORPORATE DIRECTOR (DELIVERY)**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another Officer:
  - Development
  - Community
  - Leisure and Health
2. To be responsible for the Health and Safety of employees

### **CORPORATE DIRECTOR (SERVICES)**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another officer:
  - Operations
  - Customer Services
  - Resources
2. To be responsible for the Health and Safety of Employees
3. To be the Monitoring Officer
4. In conjunction with the Managing Director to be responsible for a system of record keeping for all the local authority decisions.

### **HEAD OF RESOURCES**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives and policies to act on behalf of the Council on all matters relating to Accountancy, Internal Audit and Risk, Procurement, Legal Client management and Property and Estate Management.
2. To exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.
3. To be the Proper Officer under section 115 of the Local Government Act 1972.
4. To have responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit Regulations 2003 (or any amending or substituted legislation, or legislation with a similar purpose or made for similar purposes).
5. To have responsibility for borrowing and lending within limits approved by the authority.
6. To make various determinations on an annual basis relating to capital expenditure

7. In consultation with the Head of 3C Legal Shared Service, to authorise the acquisition, re-use, appropriation and disposal of the Council's land and buildings, together with the granting or taking assignment or surrender of leases, tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings.

#### **HEAD OF CUSTOMER SERVICES**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to Customer Services, Revenues and Benefits, Housing Needs, Document Centre and ICT shared service client management

#### **HEAD OF OPERATIONS**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to: Refuse, Recycling & Garden Waste Collections, Waste Management, Street Cleansing, Parks, Open Spaces & Amenity Areas, Bulky Waste Collection Service, Car Parks, Vehicle Fleet & Mechanical Plant and Markets.

#### **HEAD OF DEVELOPMENT**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to Planning Policy, Development Management, Building Control client management, Housing Strategy and Economic Development.
2. To determine matters in accordance with the scheme of delegation of planning decisions and actions approved by the Development Management Panel.

#### **HEAD OF COMMUNITY**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council in relation to the discharge of the Council's functions and responsibilities for Environmental Health, Animal Welfare and Pest Control, CCTV, Community Safety, Community Development and Licensing, including issuing and ensuring compliance with licenses on whatsoever nature other than those licenses falling within the responsibility of another Head of Service in accordance with a Scheme of Delegation of Officers as determined by the Licensing and Protection Committee, or Licensing Committee.

#### **HEAD OF LEISURE AND HEALTH**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council in all matters relating to the discharge of the Council's functions and responsibilities relating to sports and leisure centres, sports and active lifestyles and Health and Well-being.

#### **CORPORATE TEAM MANAGER**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council in all matters related to the



discharge of the Council's functions and responsibilities relating to policy and performance, corporate communications, marketing, programme and project management, democratic services and elections.

2. To manage administration of the Council's complaints including issues of maladministration.

#### **HEAD OF LEGAL SHARED SERVICE**

1. To act as Solicitor to the Council and to settle on appropriate terms any litigation or claim taken by or against the Council.
2. In consultation with the Managing Director/relevant Corporate Director to authorise the institution, defence, withdrawal, compromise or any other action relating to claims or legal proceedings, civil or criminal (except in relation to prosecutions where the authorisation of prosecutions is expressly delegated to another Head of Service).
3. To authorise Officers of the Council to appear before Magistrates' Courts or County Courts.
4. To issue or serve statutory notices on behalf of the Council in relation to any of its functions.
5. To be the Proper Officer of the authority, except where legislation, or a delegation made by or under this scheme, names another officer; and to authorise the making and issue of any formal documents.

#### **HEAD OF 3C ICT SHARED SERVICE**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council in all matters related to the discharge of the Council's functions and responsibilities relating to the delivery of ICT services, information management, Freedom of Information requests and street naming and numbering.
2. To have overall responsibility for the Council's Information Management Systems.

Draft - v4 08 March 2016

## **Part 4**

### **Rules of Procedure**

Draft - v4 08 March 2016

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## **COUNCIL PROCEDURE RULES (STANDING ORDERS)**

### **1. SCOPE**

These rules apply to meetings of the Council

### **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 and normally will be held on the third Wednesday in May of each year commencing at 6.00 pm.

The annual meeting will:-

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) appoint the Vice-Chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or Head of Paid Service;
- (vi) elect the Executive Leader;
- (vii) appoint members to Overview and Scrutiny Panels, the Standards Committee, the Licensing Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution) and to alter their membership at any ordinary meeting;
- (viii) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution); and
- (ix) consider any business set out in the notice convening the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

#### **2.2 Selection of Councillors on Committees and Panels**

At the annual meeting, the Council will:-

- (i) decide which committees and panels in addition to the Licensing Committee should be established for the ensuing municipal year;

- (ii) decide the terms of reference for those committees/panels with the exception of the Licensing Committee;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each committee and panel; and
- (v) appoint to those committees and panels annually.

### **3. ORDINARY MEETINGS OF THE COUNCIL**

Ordinary meetings of the Council will take place in accordance with the annual programme of meetings. Ordinary meetings will:-

- (i) elect a person to preside if the Chairman or Vice-Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chairman or Head of Paid Service;
- (v) receive reports from the Executive Leader, Deputy Executive Leader or other member of the Cabinet and Chairmen of the Overview and Scrutiny Panels, committees and other panels, receive questions and answers on any of those reports and consider any recommendations contained therein.
- (vi) consider motions;
- (vii) consider any other business specified in the summons to the meeting in the order in which it appears in the Council summons; but that order may be varied at the discretion of the Council or by resolution of the Council including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Panels for debate.

### **4. EXTRAORDINARY MEETINGS**

#### **4.1 Calling Extraordinary Meetings**

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

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **4.2 Business**

The summons to an extraordinary meeting of the Council shall set out the business to be considered thereat and no business other than that set out in the summons shall be considered at that meeting.

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

The time and place of meetings will be determined by the Head of Paid Service and notified in the summons. Meetings of the Council normally shall be convened for 7 pm. In special circumstances, the Head of Paid Service (after consultation with the Chairman) may fix some other hour of commencement of any meeting of the Council.

#### **6. NOTICE OF AND SUMMONS TO MEETING**

The Head of Paid Service 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 Head of Paid Service will send a summons signed by him or her by post to every member of the Council or leave it at their usual residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

#### **7. CHAIRMAN OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chairman. Whenever the Chairman rises during debate a member then standing shall resume his seat and the Council shall be silent. Where these Rules apply to panel and committee meetings, references to the Chairman also include the Chairman of such panel and committee.

#### **8. QUORUM**

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chairman counts the number of members present and declares that 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Council.

#### **9. QUESTIONS BY MEMBERS**

##### **9.1 Oral Questions on Reports of the Cabinet, Committee or Panel**

A member of the Council may ask the Executive Leader, a member of the Cabinet with portfolio responsibility, or the Chairman of a Committee or Panel any question, without notice, upon an item of the report of the Cabinet or a Committee or Panel when that item is being received or under consideration by the Council.

##### **9.2 Oral Questions on Recommendations of the Cabinet, Committee or Panel or Other Reports to the Council**

Before a recommendation of the Cabinet, Committee or Panel or a report that is otherwise included on the agenda is open for consideration by the Council, a Member of the Council may ask a question, without notice, on the recommendation or report to:-

- (i) the Executive Leader, a member of the Cabinet with portfolio responsibility, or the Chairman of a Committee or Panel, as appropriate; and/or
- (ii) the author of the report in the case of a report that is otherwise included on the agenda for the meeting.

### 9.3 Oral Questions

At each ordinary meeting of the Council (excluding the annual meeting or any special meeting convened to consider a specific issue), there shall be a period for oral questions. A member of the Council may ask the Executive Leader or a member of the Cabinet with portfolio responsibility any question, without notice, on any matter relevant to the Council's powers and duties. The conduct of oral question time shall be regulated by the Chairman of the Council

- a. All questions –
  - ◆ must be relevant to matters for which the Council has powers or duties;
  - ◆ must not relate to an item which is included elsewhere on the Council agenda since they can be raised at that point in the meeting;
  - ◆ should be limited to obtaining information or pressing for action;
  - ◆ must not exceed two minutes in duration.
- b. Questions should **not** –
  - ◆ be incapable of being adequately answered in two minutes;
  - ◆ contain offensive expressions;
  - ◆ divulge, or require to be divulged, confidential or exempt information.
- c. Any facts on which a question is based should be identified briefly when the question is asked. A member who asks a question may be asked to verify the authenticity of any factual statement. A ten minute period for questions to each presenting Executive Councillor, the balance of the 30 minutes will be used for questions to the Cabinet generally.
- d. Where a member considers that the subject matter demands a comprehensive detailed answer, the question should be submitted to Monitoring Officer by noon at least 8 clear days in advance of the meeting.

### 9.4 Response

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

- (a) a direct oral answer of up to a maximum of two minutes' duration;



- (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 and made available to all members of the Council and the public.

#### 9.5 **Written Questions**

Subject to Rule 9.6, a member of the Council may ask the Chairman, the Executive Leader, a member of the Cabinet with executive responsibility or the Chairman of any Committee or Panel a question, in writing, on any matter in relation to which the Council has powers or duties or which affects the District.

#### 9.6 **Notice of Questions**

A member may only ask a question under Rule 9.5 if, either -

- (a) he has given notice in writing of the question to the office of the Monitoring Officer not later than 12 noon on the 8th clear working day before the date of the meeting; or
- (b) Where a question relates to a matter of urgency, a member must seek the agreement of the Chairman of the Council and the member to whom the question is to be put that he is prepared to accept the question as a matter of urgency. If agreement is forthcoming, the content of the question must be given in writing to the office of the Corporate Director (Services) & Monitoring Officer at least one hour before the scheduled start of the meeting.

#### 9.7 **Response to Questions**

A response to a written question shall take the form of a written reply by the member concerned which shall be made available to members of the Council and to the public prior to the start of the meeting.

Where an urgent question has been submitted under Rule 9.6(b), a written response will be made available to members of Council and to the public as soon as practicable.

Members will seek to respond to questions as fully as possible but shall not be required to divulge confidential or exempt information.

#### 9.8 **Supplementary Questions**

A member asking a question under Rule 9.1 or Rule 9.3 may ask one supplementary question without notice of the member to whom the first question was addressed. The supplementary question must arise directly out of the original question or the reply and shall be limited to a maximum of one minute's duration. An oral response will be limited to two minutes.

#### 9.9 **QUESTIONS BY MEMBERS OF THE PUBLIC**

Any person who lives, works or owns property in the District shall be able to ask a question at ordinary meetings of the Council using the same criteria as

set out in Rules 9.1 and 9.7 but subject to notice of the question being submitted to the office of the Monitoring Officer five days prior to the meeting. Questions by members of the public will be dealt with in accordance with the guidelines published on the Council's website.

## 10. NOTICES OF MOTION

### Notice

- 10.1 Except for motions which can be moved without notice under Rule 11, written notice of every motion, shall be given in writing, signed by the member giving the notice and delivered not later than noon on the 8th clear working day (i.e. excluding Saturdays, Sundays and Bank Holidays) before the meeting at which it is to be considered, to the office of the Monitoring Officer by whom it should be dated, numbered in the order in which it is received and entered into a book which shall be open for inspection by every member of the Council. The submission of a written notice of motion via e-mail addressed to the Monitoring Officer will be acceptable.

### Motions set out in agenda

- 10.2 The Head of Paid Service shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the Member giving such notice intimated in writing when giving it, that he proposed to move it at some later meeting, or subsequently had withdrawn it in writing.

### Scope

- 10.3 Every Motion shall be relevant to some matter of major significance in relation to which the Council has powers or duties or which is of more general concern affecting the District and shall only be submitted in circumstances when the subject matter would not be referred to elsewhere at the meeting in a report from the Cabinet, Overview and Scrutiny Panel, Committee or Panel etc.

### 10.4 Failure to Move

If a motion set out in the summons is not moved either by the member who gave notice thereof or by some other member on his behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

### 10.5 Reference to Cabinet, Committee or Panel

- (i) Subject to paragraph 10.5 (iii) post, if the subject matter of any motion of which notice has been duly given is within the terms of reference of the Cabinet, an Overview and Scrutiny Panel, a committee or panel, it shall, upon being moved and seconded, stand referred without discussion to the Cabinet, Overview and Scrutiny Panel, committee or panel as the Council may determine, provided that such Cabinet, Overview and Scrutiny Panel, committee or panel shall report on the matter with recommendations to an ensuing meeting of the Council.
- (ii) This Rule shall have precedence over Rule 11.5.

- (iii) The Chairman may, if he/she considers it convenient and conducive to the despatch of business, allow the Motion to be dealt with at the meeting at which it is brought forward.

#### 11. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or panel or member arising from an item on the summons for the meeting;
- (f) to receive, defer or refer back reports or adoption of recommendations of the Cabinet, Overview and Scrutiny Panels, committees, panels or officers and any subsequent motions and amendments arising therefrom;
- (g) to withdraw a motion;
- (h) to amend a motion; (the text of the proposed amendment to be forwarded to the Head of Paid Service, or in her absence, the Monitoring Officer prior to the commencement of the meeting of the Council and a copy circulated to the meeting to ease understanding of the proposed text);
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4;
- (p) to give the consent of the Council where its consent is required by this Constitution;
- (q) to invite a member to remain;
- (r) to record a vote in accordance with Rule 14.4 or 14.5;

- (s) in connection with voting on appointments in accordance with Rule 14.6;  
and
- (t) to extend the time limit for speeches.

## **11. RULES OF DEBATE**

### **11.1 Standing to Speak**

When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the other must sit. Other members must remain seated whilst another member is speaking unless they wish to make a point of order or a point of personal explanation.

### **11.2 Chairman Standing**

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

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

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

### **11.4 Seconder's Speech**

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

### **11.5 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 may exceed 5 minutes in length without the consent of the Chairman given by reason of the exceptional importance of the subject it shall be within the discretion of the Chairman to permit up to a further 5 minutes. This rule shall not apply to the member of the Cabinet with executive responsibility in presenting the annual budget statement and statutory and non-statutory plans to the Council.

### **11.6 When a Member May Speak Again**

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

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);

- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

#### 11.7 **Amendments to Motions**

- (a) An amendment to a motion must be relevant to a motion and will either be:-
  - (i) to refer a subject of debate to the Cabinet, Overview and Scrutiny Panel, committee or panel 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 such omission, insertion or addition of words does not have the effect of negating the motion before the Council.

- (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) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) If an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there is none, put it to the vote except in the case of such an amendment as is referred to in 11.7(a)(i) when no further amendment may be moved.

#### 11.8 **Alteration of Motion**

- (a) A member may alter a motion of which he/she has 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 he/she has 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.

### 11.9 **Withdrawal of Motion**

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

### 11.10 **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 no right of reply to the debate on his or her amendment.
- (d) A member exercising a right of reply shall not introduce new matters.

### 11.11 **Motions which may be moved during debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (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.

### 11.12 **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 Chairman thinks the item has been sufficiently discussed, he or she 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 Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the mover of the original motion the right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion he/ she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) If a motion to adjourn the meeting is seconded and the Chairman thinks that the remaining business before the meeting cannot be sufficiently discussed on that occasion he shall put the adjournment motion to the vote without giving the mover to any motion under discussion his/her right of reply. If the motion for the adjournment is carried, the remaining business shall stand adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or otherwise, to the next ordinary meeting of the Council.

#### **11.13 Point of Order**

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

#### **11.14 Personal Explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by a member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

### **12. ANNUAL STATE OF THE DISTRICT ADDRESS**

#### **12.1 Procedure**

The Chairman will invite the Executive Leader to address the Council at its summer meeting on the State of the District.

#### **12.2 Response**

The Chairman will invite the Leader(s) of the Opposition to respond to the address.

#### **12.3 Discussion**

The ensuing discussion in which a Member may speak once and to which only paragraphs 11.5, 11.13 and 11.14 of the Rules of Debate will apply will be chaired by the Chairman.

### **13. PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of the Council within the previous six months cannot be moved unless a notice of motion is signed by at least 7 members of the Council.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the previous 6 months cannot be moved within a further period of 6 months.

### **14. VOTING**

#### **14.1 Majority**

All matters will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

#### **14.2 Chairman's Casting Vote**

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

#### **14.3 Show of Hands**

Unless a recorded vote is demanded by legislation or under Rule 14.4/14.5 the Chairman will take the vote by a show of hands, or if there is no dissent by the affirmation of the meeting.

#### **14.4 Recorded Vote**

If at least one third of members present demand it and before a vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down and entered into the minutes.

#### **14.5 Recorded Vote at Council Budget Decision Meetings**

At the Budget meeting(s) each year, voting on any motion or amendment relating to the Budget or setting of the Council Tax will be recorded to show whether each member present voted for or against the motion or amendment or abstained from voting, and entered into the minutes.



#### **14.6 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.

#### **14.7 Voting on Appointments**

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

### **15 PETITIONS**

#### **15.1 Definition**

For the purposes of these procedural Standing Orders a petition shall be defined as a document embodying a formal written request for some form of action or the consideration of some matter by the Council. The submission of a petition is seen by many as lending weight to a particular viewpoint and demonstrating that the view is shared by others. Both written and electronic petitions will qualify under this scheme. Petitions made under any specific enactment such as that calling for a referendum on the form of executive of the Council, will not be dealt with under this procedure.

#### **15.2 Scope**

Every petition shall be relevant to some matter of major significance in relation to which the Council has powers or duties or which is of more general concern affecting the District, its Council Tax or NNDR payers or concerns a matter on the agenda for the Council meeting to which the petition is to be submitted.

#### **15.3 Eligibility**

The District Council will not accept petitions which are vexatious, abusive or otherwise inappropriate or which relate to a specific or identifiable person or otherwise are considered to be an abuse of its powers, responsibilities or obligations. Petitions shall not be admissible where petitioners are representing personal or prejudicial issues, matters associated with political parties or organisations, where the matter involves a right of appeal to the courts, a tribunal or to a Government Minister or which in the opinion of the Monitoring Officer is of a quasi-judicial nature. The interpretation of the above criteria by the Corporate Director (Services) is final. Additionally, the following matters will be excluded from the scheme:-

- (a) any matter relating to a planning decision;
- (b) any matter relating to a licensing decision; or
- (c) any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

Petitions may be co-ordinated by individuals or by local organisations. If considered to be eligible, a petition will be referred to the first appropriate meeting after its submission.

#### 15.4 **Form**

The petition shall clearly state the purpose for which it is submitted and shall be addressed to the District Council.

A written petition shall contain the name, address and signature of each person who signed it. The name and address shall be in legible format. An on-line petition shall contain the name and address of each person who is party to it and shall remain open for signature on the Council's website for a period of 90 days. A petition shall indicate which one of the signatories is to present the petition. If the petition organiser, or his/her nominee, indicates that they are unable to present the petition at the relevant meeting, the petition will still be considered. The petition shall be sent to the office of the Monitoring Officer who will place it upon the agenda for the next Council meeting provided that the requirements are satisfied.

A maximum of three petitions will be presented at any meeting.

A petition shall not be presented to a meeting of the Council unless it is delivered to the office of the Monitoring Officer no later than noon on the tenth clear working day before the meeting at which it is to be considered. The petition shall be acknowledged in writing by or on behalf of the Corporate Director (Services) within ten clear working days of receipt of the petition. On line petitions will automatically be submitted to the Council for acknowledgement once the petition has been closed for signature.

No petition may be considered by the Council which effectively duplicates a previous petition submitted to the Council in the preceding six months.

#### 15.5 **Procedure**

Any resident who lives, works or studies (including those under 18) or who owns or occupies commercial premises in the District may present a petition to a meeting of the Council provided that it bears at least 50 signatures of people who either live or whose place of work or study is located in the District and satisfies the conditions of paragraphs 10A.3 and 10A.4 above.

Petitions which are considered at a meeting of the Council shall be presented at the conclusion of the receipt of any announcements by the Chairman. A summary of the wording of the petition shall be incorporated on the Agenda for the meeting. If the petition relates to an item on the Agenda for a Full Council meeting, the presentation will be made at the beginning of that item.

On being called by the Chairman, the person(s) presenting the petition may speak for a total of no more than five minutes in support of the petition. District Councillors may question the person(s) presenting the petition for a period of up to five minutes thereafter. The period for questions may be extended at the discretion of the Chairman.

Other than to respond to questions asked by District Councillors, petitioners shall not participate in debate nor discussion of the item to which their petition relates.

Petitions shall be presented to Council in the order in which they have been received.

#### **15.6 Petitions which are not the responsibility of the Council**

Petitions concerning a matter that the Council does not have direct control over, which relates to the functions of another local authority or concerning a matter delivered in partnership with any of the Council's partner organisations will be submitted to the Monitoring Officer who shall determine what steps the Council should take. The Monitoring Officer's decision on the matter is final. The Petition Organiser will be notified of any actions that have been taken.

### **16. MINUTES**

#### **16.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **16.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary 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), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of paragraphs 41 (1) and (2) of Schedule 12 relating to the signing of minutes.

#### **16.3 Form of Minutes**

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

### **17. RECORD OF ATTENDANCE**

All members present during the whole part of the meeting must sign their names on the attendance sheet before the conclusion of every meeting to assist with the record of attendance.

### **18. EXCLUSION OF THE PUBLIC**

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 19 (Disturbance by the Public).

### **19. PHOTOGRAPHY, BROADCASTING AND RECORDING OF MEETINGS**

The Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and microblogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. These arrangements will operate in accordance with 'Filming, Photography and Recording at Council Meetings' guidelines published on the Council's website.

## **20. DISORDERLY CONDUCT**

### **20.1 General Disturbance**

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

20.2 A member shall comply with the adopted Members' Code of Conduct reproduced in Part 5 of the Constitution. Further to the Code of Conduct, a Member must withdraw from a meeting room during the consideration of any item of business in which he/she has a disclosable pecuniary interest.

### **20.3. Member not to be heard further**

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman 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 Chairman 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.

## **21. DISTURBANCE BY THE PUBLIC**

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

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

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman 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 Chairman may call for that part to be cleared.

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

### **22.1 Suspension**

All of these Council Rules of Procedure except Rule 14.5 and 15.2 may be suspended by motion on notice or without notice if at least two thirds of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

## **22.2 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.

## **23. APPOINTMENT OF SUB-COMMITTEES, SUB-GROUPS AND ADVISORY GROUPS**

- (a) The Council, Cabinet and any committee or panel may appoint such sub-committees or sub-groups as they may consider necessary from time to time and shall specify the purpose and terms of reference of such sub-committee or sub-group;
- (b) The Council, Cabinet and any committee or panel may appoint such advisory groups as they may consider necessary from time to time and shall specify the purpose, duration and terms of reference of such advisory group, except that such advisory group shall be of a deliberative nature only and shall report back with or without recommendations to the body that appointed them;
- (c) The appointment of members to any sub-committee, sub-group or advisory group, shall be in accordance with legislative or regulatory requirements for the representation of political groups and shall have regard in particular to (b) above.

## **24. APPLICATION TO COMMITTEES AND PANELS**

The Licensing Committee has resolved to adopt the Rules that apply to the proceedings of Committees, Panels, etc of the Council but separate proceedings will apply to the hearings of its Sub-Committees.

The following Rules also apply to committees, panels, sub-committees and sub-groups.

## **25. MEMBERSHIP**

The Executive Leader, Deputy Executive Leader and any member of the Cabinet shall not be elected as Chairman of any committee or panel other than any that may be appointed by the Cabinet.

Every member of the Council shall be appointed to serve on a minimum of one Overview and Scrutiny Panel, committee or panel of the Council or of the Cabinet.

## **26. ITEMS ON COMMITTEE AGENDA**

Any member wishing to have an item placed on an agenda for a meeting of the Cabinet, committee or panel (other than by way of a Notice of Motion in

accordance with Rule 10) shall contact the Head of Paid Service, or in her absence the Monitoring Officer requesting that an item be placed on the next available agenda for that body and the decision of the Head of Paid Service, or in her absence, the Monitoring Officer shall be final as to whether that item falls within the terms of reference of the Cabinet, committee or panel and whether the item should be included on the agenda for a meeting of that body.

## **27. DEVELOPMENT MANAGEMENT APPLICATIONS**

### **(a) Public Speaking at Council**

In those circumstances where a planning application is to be determined by full Council, the Council's Head of Development or Planning Service Manager (Development Management) or his representative and other relevant Officers shall be permitted to present reports to the Council and the public speaking process adopted by the Development Management Committee be applied;

### **(b) Consideration of Departures from the Development Plan**

Planning applications for the following types of development should be referred to the Secretary of State if the Development Management Committee is minded to approve them under the Town and Country Planning (Consultation) (England) Direction 2009 unless the application in question is considered by the Head of Development and Corporate Director (Services) to be so 'significant' that it should remain the decision of the Council to refer the application to the Secretary of State. The Development Plan shall, on the recommendation of the Development Management Committee, be considered by the Council having regard to advice received from the Head of Development and Corporate Director (Delivery) and guidelines on the Council's website).

## **28. CASUAL VACANCIES**

A casual vacancy on any committee or panel occasioned by the resignation of a member from that body will be filled by a resolution of the Council. The Executive Leader may vary the membership of Cabinet at any time and may fill any vacancy that arises.

## **COMMITTEE PROCEDURE RULES**

### **1. SCOPE**

These rules apply to the meetings of Overview and Scrutiny Committees, the Standards Committee, the Planning Committee, the Licensing Committee and any Sub-Committees that are appointed by them and all other Committees appointed by the Council. The Licensing Committee has resolved to adopt the Rules that apply to the proceedings of Committee Panels of the Council but separate proceedings will apply to the hearings of its Sub-Committees.

### **2. MEETINGS OF COMMITTEES**

- 2.1 The meetings of Committees shall be held on the dates set out in the annual programme of meetings approved.
- 2.2 If the Chairman of the Committee considers that the day fixed for a Committee meeting is no longer suitable for that purpose or if there is insufficient business to justify the holding of the meeting, they shall, after consultation with the Leaders of Political Groups and the Managing Director cancel the holding of that meeting and, if appropriate, fix an alternative day for the holding of that meeting.
- 2.3 The Chairman of a Committee may call an extra-ordinary meeting of their Committee at any time.
- 2.4 If the Chairman does not call an extra-ordinary meeting of the Committee after a requisition for that purpose, signed by at least three Members of the Committee, has been [resented to them then the three Members of the Committee may forthwith require the Managing Director to summon than extra-ordinary meeting to discuss the matters referred to in the requisition to the Chairman.
- 2.5 Unless otherwise specified by a Committee or by a Chairman of the Committee the time and place of the meeting will be determined by the Head of Paid Service and notified in the summons. Meetings shall normally commence at 7:00pm.

### **3. THE CHAIR AND VICE CHAIR OF COMMITTEES**

- 3.1 The Chairman of a Committee shall preside over meetings of that Committee.
- 3.2 Any powers and duties assigned to the Chairman of a Committee under these Committee Procedure Rules shall, in the absence of the Chairman, be undertaken by the Vice Chairman.
  - 3.3.1 Where both the Chairman and Vice Chairman are absent from a meeting the Committee shall as the first item of business at that meeting appoint another Member of the Committee to act as a Chairman for that meeting and that person shall, for the duration of that meeting, be entitled to exercise all the powers and duties of the Chairman under these Committee Procedure Rules in relation to that meeting.

#### **4. QUORUM**

- 4.1 The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chairman counts the number of Members present and declares that there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at the time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Council. In no case should the quorum of Sub Committees and Sub Groups be less than three Members.

#### **5. SUMMONS AND AGENDA FOR MEETINGS OF COMMITTEES**

- 5.1 The Head of Paid Service 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 Head of Paid Service will send a summons signed by him or her by post to every member of the Council or leave it at their usual residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- 5.2 No business other than that specified in the summons and the agenda shall be transacted at the meeting of the Committee except urgent items.

#### **6. MINUTES**

##### **6.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

##### **6.2 No requirement to Sign Minutes of Previous Meeting at Extraordinary 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), then the next following meeting (being called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of paragraphs 41 (1) and (2) of Schedule 12 relating to the signing of Minutes.

##### **6.3 Form of Minutes**

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

#### **7. VOTING**

- 7.1 Any question at any meeting of any Committee shall be determined by a show of hands by a majority of the Councillors and co-opted Members (where they are entitled to vote) present and voting.



7.2 Where immediately after a vote is taken any councillor requires, there shall be recorded in the minutes whether that person cast their vote for the question or against the question or whether they abstained from voting.

7.3 If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

## **8. ATTENDANCE BY MEMBERS OF THE COUNCIL AT MEETINGS OF WHICH THEY ARE NOT MEMBERS**

8.1 A Member of the Council shall be permitted to attend a meeting of the Cabinet, Overview and scrutiny Panels, committees, panels, sub-committees and sub-groups of the Council of which he/she is not a member but he/she shall not be entitled to take part in any discussion or vote on any matter under consideration. A Member of the Council may, however, address a meeting of the Cabinet, Overview and Scrutiny Panel, committee, panel sub-committee or sub-group of which he/she is not a member on a specified item or items of business where written notice has been given to and prior permission obtained from the Chairman of the cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group.

### **8.2 MOVER OF MOTION MAY ATTEND MEETING**

A member of Council who has moved a motion which has been referred by the Council to the cabinet, Overview and Scrutiny Panel, committee or panel shall receive notice of the meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and if he/she attends shall have an opportunity of speaking to the motion and exercising the right of reply under Rule 12.9.

## **9. DEVELOPMENT MANAGEMENT APPLICATIONS**

### **Public Speaking at Development Management Panel**

Where a planning application falls to be determined by the Development Management Panel and where appropriate notice has been given, an elected Member of the relevant town and parish council/meeting, the District Ward Member, the objector(s), the applicant(s) or their representatives shall be permitted to address the Panel on the application under the direction of the Chairman having regard to the guidelines published on the Council's website.

## **10. PUBLIC REPRESENTATIONS – LICENSING COMMITTEE**

10.1 The provisions of the Committee Procedure Rule shall only apply to consideration by the Licensing Committee of any matters relating to the grant, refusal, variation or revocation of any licence, permit or approval falling within its terms of reference including the terms and conditions attached to the same.

The applicant (or any representative on their behalf) shall be given an opportunity to make representations to the committee and call any witnesses. The following persons shall also be permitted to make representations to the Committee:-

- i. members of the public

- ii. Councillors who are not members of the Committee or acting as substitutes
- iii. Representatives of the Police or fire Authority
- iv. Council Officers

All persons who make representations to the Committee may be asked questions by members of the Committee or by other persons making representations.

After everyone else has made representations and answered questions, the applicant shall be permitted to make a final statement to the committee, after which everyone shall withdraw except the members of the Committee and the representatives of the Monitoring Officer while the Committee considers its decision. The decision will be announced to the applicant and the other persons who have made representations and confirmed in writing by the Proper Officer to the applicant.

The Monitoring Officer shall be authorised to produce detailed Procedure Notes for the different types of applications considered by the Licensing Committee incorporating principles set out in this Committee Procedure rule.

## **11. RULES OF DEBATE**

The rules of debate in this Committee Procedure Rule shall apply to all the meetings of Committees and the references in the Committee Procedure Rule to “Member” shall also include co-opted Members.

## **12. RULES OF DEBATE FOR COMMITTEE MEETINGS**

### **12.1 Speaking at Committee Meetings**

A Member wishing to speak will raise their hand. If two or more Members indicate that they wish to speak, the Chairman will call them in turn to speak.

### **12.2 Content of Speeches**

A member shall speak on the question under discussion or a personal explanation or to a point of order.

### **12.3 Motions and Amendments**

A motion or amendment shall not be discussed unless it has been proposed and seconded, and unless notice has already been given in accordance with Committee Procedure rules it shall, if required by the Chairman be put into writing and handed to the Chairman before it is further discussed or put to a meeting.

### **12.4 Secunder’s Speech**

A Member when seconding a motion or amendment may reserve their speech until a later period of the debate.

### **12.5 Amendments to Motions**

Every amendment shall be relevant to the motion on which it is moved and shall be:-

- i. To leave out words; or
- ii. To leave out words and insert and add others; or
- iii. To insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Committee.

#### **12.6 Two or More Amendments**

Only one amendment may be moved and discussed at a time and no further amendments shall be moved until the amendment under discussion has been disposed of.

#### **12.7 Position if an Amendment is Lost or carried**

If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

#### **12.8 Withdrawal of the Motion**

A motion or an amendment may be withdrawn by the mover with the consent of their seconder and no member may speak upon it after it has been withdrawn.

#### **12.9 Alteration of Motion**

A Member may, with the consent of both the meeting and their seconder, alter a motion or amendment which they proposed or of which notice had been given. Only alterations which could have been moved as an amendment may be made.

#### **12.10 Motions Which May be Moved During Debate**

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

- i. to withdraw a motion
- ii. to amend a motion
- iii. to proceed to the next business
- iv. that the question be now put
- v. to adjourn a debate
- vi. to adjourn a meeting
- vii. to exclude the public and press in accordance with the Access to Information rules; and
- viii. to not hear further a Member named under rule 18.3 or to exclude them from the meeting under Rule 18.4

#### **12.11 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 Chairman thinks the item has been sufficiently discussed, he or she 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 Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the mover of the original motion the right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion he/ she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) If a motion to adjourn the meeting is seconded and the Chairman thinks that the remaining business before the meeting cannot be sufficiently discussed on that occasion he shall put the adjournment motion to the vote without giving the mover to any motion under discussion his/her right of reply. If the motion for the adjournment is carried, the remaining business shall stand adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or otherwise, to the next ordinary meeting of the Council.

#### 12.12 **Resumption after Adjournment**

On resumption of an adjourned debate the Member who moved the adjournment is entitled to speak first.

#### 12.13 **Point of Order**

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

#### 12.14 **Personal Explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by a member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

#### 12.15 **Irrelevance, repetition and limitation on speakers**

In speaking to any motion or amendment Members are to confine their remarks strictly to such motion or amendment and shall not introduce irrelevant matters or indulge in needless repetition. The Chairman's ruling on this is final.

If three speakers have spoken consecutively in support of, or in opposition to a motion, the Chairman may call for a speaker to the contrary. If no such speaker is forthcoming and after the mover has had a right of reply, the motion must be put. Members speaking must, if called upon to do so by the chairman,

announce whether they are speaking in support of, or against the motion of amendment being debated.

**12.16 Officers of the Council**

Officer of the Council may speak during a debate at the Committee meetings.

**12.17 Oral Reports**

With the consent of the Chairman, Officers may make an oral report on a matter of importance and urgency.

**13 DISORDERLY CONDUCT**

**13.1 General Disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary. A member shall comply with the adopted Members' Code of Conduct reproduced in Part 5 of the Constitution. Further to the Code of Conduct, a Member must withdraw from a meeting room during the consideration of any item of business in which he/she has a disclosable pecuniary interest.

**13.2 Member not to be heard further**

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

**13.3 Member to leave the Meeting**

If the member continues to behave improperly after such a motion is carried, the Chairman 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.

**13.4 DISTURBANCE BY MEMBERS OF THE PUBLIC**

If a member of the public interrupts the proceedings at any meeting the chairman shall warn them. If they continue the interruption the Chairman shall order their removal from the room in which the meeting is being held. In case of general disturbance in any part of the room in which the meeting is being held open to the public the Chairman shall order that part to be cleared.

**13.5 RESCISSION OF RESOLUTIONS**

No resolution taken at a previous meeting of Committee shall be rescinded or varied within six months unless notice has been given on the agenda for the meeting of the intention of the body to reconsider the matter.

**13.6 RECORD OF ATTENDANCES**

Every member of the Council and co-opted Member attending a meeting of a Committee shall sign their name in the attendance book or sheet.

**13.7 CASUAL VACANCIES**

A casual vacancy on an Overview and Scrutiny Panel, committee or panel occasioned by the resignation of a member from that body may be filled by a resolution of the Council. The Executive Leader may vary the membership of Cabinet at any time and may fill any vacancy that arises.

Draft - v4 08 March 2016

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These Rules apply to all meetings of the Council, the Cabinet, panels and committees, sub-committees and sub-groups. The Licensing Committee has resolved to adopt the Rules for the purpose of its meetings but separate proceedings will apply to the hearings of its sub-committees.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

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

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend, record and report all meetings subject only to the exceptions in these Rules.

### **4. NOTICES OF MEETING**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Council's offices at Pathfinder House, Huntingdon

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later in cases of urgency, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the agenda has been sent out, the Elections and Democratic Services Manager shall make each such report available to the public as soon as the report is completed and sent to Councillors.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:-

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

to any person on payment of a reasonable charge for postage and any other costs.

### **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

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

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

Every report shall list those documents (background papers) relating to the subject matter of the report, except published works or exempt or confidential information (as defined in Rule 10), which:-

- (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.

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

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

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Council's offices at Pathfinder House, Huntingdon and on the Council's website.

## **10. EXCLUSION OF THE PUBLIC FROM MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

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

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

### **10.2 Exempt information – discretion to exclude public**

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



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

### 10.3 Meaning of exempt information

Exempt information means information falling within the following 7 categories, subject to the relevant condition(s) 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:-

Category	Condition
1. Information relating to any individual.	
2. Information that 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).	Information is not exempt information if it is required to be registered under – (a) The Companies Act 1985 (b) The Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Act 1965 – 1978 (e) The Building Societies Act 1986; or (f) The Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes –  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (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.	
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Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

#### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Head of Paid Service or his/her nominee thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be endorsed "Not for publication" together with the category of information likely to be disclosed.

#### **12. APPLICATION OF RULES TO THE CABINET**

Rules 13 – 24 apply to the Executive Leader, Cabinet, its committees and executive councillors. If the Executive Leader, Cabinet, its committees and executive councillors propose to meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in paragraph 3 (b) of Article 13 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer present or the Executive Leader or an executive councillor propose to take a key decision, within 28 days of the date according to the Notice of Executive Decisions by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply.

#### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:-

- (a) a notice (in the form of a Notice of 'Executive Decisions') has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notice; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. NOTICE OF EXECUTIVE DECISION**

### **14.1 Period of Notice**

The Executive Leader will give 28 clear days' notice of the intention to make a key decision and notice of any intention to hold part of the Cabinet meeting in private. Such notice to include a statement as to why any specific matter is being dealt with in private. The Notice will be available for inspection at the District Council's offices and published on the District Council's website.

### **14.2 Content of the Notice**

The Notice will contain matters which the Executive Leader has reason to believe will be the subject of a key decision to be taken by himself/herself, the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Notice. It will describe the following particulars in so far as the information is available or might reasonably be obtained:-

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available; and
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken.

Exempt information need not be included in the Notice and confidential information cannot be included.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the Notice, then subject to Rule 16 (special urgency), the decision may still be taken if:-

- (a) At least five clear days public notice of the decision to be taken is given at the Council's Offices and on the website; and
- (b) the Head of Paid Service has given notice in writing to the Chairman of a relevant Overview and Scrutiny Panel, or if there is no such person,

each member of that Panel in writing, by notice, of the matter to which the decision is to be made.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Panel, or if the Chairman of each relevant Overview and Scrutiny Panel is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the consent of the Head of Paid Service or her nominee will suffice. Decisions taken as a matter of urgency must be reported to the next available meeting of the relevant Overview and Scrutiny Panel, together with the reasons for urgency. Once agreement has been obtained that the making of the decision is urgent and cannot be reasonably deferred, Notice to this effect must be made available at the District Council's Offices and published on the website.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Panel can require a report**

If an Overview and Scrutiny Panel thinks that a key decision has been taken which was not:-

- (a) included in the Notice of Executive Decisions;
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Panel Chairman or the Chairman of the Council or the Head of Paid Service or her nominee under Rule 16;
- (d) the Panel may require the Executive Leader to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Corporate Director (Services), who shall require such a report on behalf of the Panel when so requested by the Chairman or any three members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Panel.

### **17.2 Executive Leader Report to Council**

The Executive Leader will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven working days of receipt of the written notice, or the resolution of the Panel, then the report may be submitted to the meeting after that. The report to the Council will set out particulars of the decision, the individual or body making the decision, and if the Executive Leader is of the opinion that it was not a key decision the reasons for that opinion.

### **17.3 Quarterly Reports on special urgency decisions**

In any event the Executive Leader will submit annually reports to the Council on executive decisions taken in the circumstances set out in Rule 16 (special urgency). The report will include the number of decisions so taken and a description of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

18.1 After any meeting of the Cabinet or its committees or a decision is taken by the Executive Leader or an executive councillor, the Elections and Democratic Services will produce a record of every decision taken as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected at that meeting details of any conflict of interest declared by any Member and, if applicable, a note of any dispensation in respect of a conflict of interest which has been granted by the Monitoring Officer.

18.2 After an Officer has taken a decision closely associated with the discharge of an executive function, and where that decision is not exempt from publication, a record of the decision shall be published on the Council's website.

## **19. CABINET MEETINGS IN PUBLIC**

All meetings of the Cabinet will be held in public, except where the business to be transacted would disclose confidential or exempt information under Rule 10.

## **20. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS**

### **20.1 Reports intended to be taken into account**

An individual member of the Cabinet shall not make a decision and an officer shall not make a key decision until he/she has taken into account a written report and he/she will not make the decision until at least five clear days after receipt of that report.

### **20.2 Provision of copies of reports to Overview and Scrutiny Panels**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

### **20.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Elections and Democratic Services Manager to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

## **21. OVERVIEW AND SCRUTINY PANELS ACCESS TO DOCUMENTS**

### **21.1 Rights to Copies**

Subject to Rule 22.2 below, an Overview and Scrutiny Panel (including its sub-panels) 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 member of the Cabinet.

### **21.2 Limit on Rights**

An Overview and Scrutiny Panel will not be entitled to:-

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

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 Material relating to previous business**

Any 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 meeting of the Cabinet or relates to any key decision shall be open to inspection by any Member of the Council unless it appears to the Corporate Director (Services) and Monitoring Officer that it discloses exempt information.

Notwithstanding paragraph 23.1, the document will remain open to inspection if the information it contains falls within paragraphs 3 or 6 of Schedule 12A to the Local Government Act 1972 (with the exception of information relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract).

### **22.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 23.1 applies.

### **22.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

# **CABINET PROCEDURE RULES**

## **1. OPERATION OF THE CABINET**

### **1.1 Who May Make Executive Decisions**

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. The Executive Leader will decide how they are to be exercised and will provide the Monitoring Officer with a copy of the list setting out who of the following is responsible for particular Executive Functions:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual member of the Cabinet;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

### **1.2 Delegation of Executive Functions**

Where the Cabinet, individual Cabinet member or a committee of the Cabinet is responsible for an executive function, they may delegate further to an Officer.

### **1.3 Cabinet Meetings - Frequency and Venue**

The Cabinet will meet at least ten times per year at times to be agreed by the Executive Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Executive Leader.

### **1.4 Meetings of the Cabinet**

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering meetings of the Cabinet.

### **1.5 Quorum**

The quorum for a meeting of the Cabinet or a committee of it shall be one quarter of the total number of members of the Cabinet or three whichever is the larger.

### **1.6 Decision Taking by the Cabinet**

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

- (b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **2. CONDUCT OF CABINET MEETINGS**

### **2.1 Chairman**

If the Executive Leader is present, he/she will preside at meetings of the Cabinet. In his/her absence then the Deputy Executive Leader will preside. In the absence of both the Executive Leader and the Deputy Executive Leader, the Cabinet will appoint a person from among those present to preside at that meeting.

### **2.2 Attendance**

The details are set out in the Access to Information Rules in Part 4 of this Constitution.

### **2.3 Business**

At each meeting of the Cabinet, the following business will be conducted:-

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest (if any);
- (iii) any matters referred to the Cabinet (whether by an Overview and Scrutiny Panel or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Panels; and
- (v) matters set out in the agenda for the meeting and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

### **2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Panels and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.5 Cabinet Agenda Items**

The Executive Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that



matter. The Head of Paid Service will comply with the Executive Leader's requests in that respect.

Any member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request, the Head of Paid Service will comply.

The Head of Paid Service will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet.

Any member of the Council may ask the Executive Leader to put an item on the agenda of a Cabinet meeting for consideration and, if the Executive Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting and may speak if so invited by the Executive Leader.

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

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

### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

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

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

The process by which the budget and policy framework shall be developed is:-

- (a) The Cabinet will publicise by including in the Notice of Executive Decisions and/or publication at the Council's offices or by other means e.g. on its website or in the local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals. The Chairman of the relevant Overview and Scrutiny Panel also will be notified. In the absence of the Chairman, the Vice-Chairman of the relevant Panel will be notified. The consultation period shall in each instance be relevant to the proposals to be considered and sufficient for meaningful consultation.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the relevant Overview and Scrutiny Panel wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Panels have responsibility for fixing their own work programme, it is open to an Overview and Scrutiny Panel to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from an Overview and Scrutiny Panel into account in drawing up firm proposals for the submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved firm proposals, the Chief Finance Officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised within three working days of the meeting in accordance with Article 4 and a copy shall be given to the Executive Leader.

- (g) An in-principle decision will automatically become effective within five working days from the publication of the Council's decision, unless the Executive Leader informs the Head of Paid Service in writing within that period of five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Head of Paid Service will call a Council meeting within a further 15 working days. The Council will be required to reconsider its decision and the Executive Leader's written submission. The Council may:-
  - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustment). Any other changes to the policy and budgetary framework are reserved to the Council.

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

- (a) Subject to the provisions of paragraph 5 (virement), the Executive Leader, the Cabinet, committee of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- (b) If the Executive Leader, the Cabinet, committee of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the 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 either of those officers is that the decision would not be in line 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 4 (urgent decisions outside the budget and policy framework) shall apply.

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

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

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman or the relevant Overview and Scrutiny Panel'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 Chairman of a relevant Overview and Scrutiny Panel, the consent of the Chairman of the Council, and in the absence of both, the Head of Paid Service or his/her nominee's consent will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next ordinary Council meeting explaining the decision, the reasons for it and why the decision was taken as a matter of urgency.

#### **5. VIREMENT**

- (a) The Code of Financial Management in Part 4 of this Constitution includes provisions which set out the rules for moving monies between budgetary allocations including contingencies (virement).
- (b) Steps taken by the Executive Leader, the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or an officer or joint arrangements discharging executive functions to implement Council policy shall not exceed those financial allocations to each budget head. However, such bodies or individuals shall be entitled to vire resources as follows:-
- (i) within a service at the discretion of the relevant head of service; and
  - (ii) between services and/or defined activities up to £50,000 in any financial year at the discretion of the Cabinet.

In all other cases virement will require the approval of the Council.

#### **6. IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive Leader, the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions must be in line with it. No

changes to any policy and strategy which make up the policy framework may be made by those bodies and individuals except those changes:-

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

In each case a report on the action taken will be reported by the Cabinet to the next ordinary meeting of the Council.

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

- (a) Where an Overview and Scrutiny Panel is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to an Overview and Scrutiny Panel if the Monitoring Officer or Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the 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 Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Overview and Scrutiny Panel. At the meeting it will receive a report on the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:-
  - (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- (ii) amend the Council's Code of Financial Management or policy concerned to encompass a decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the Council's budget, and does not amend the existing framework to accommodate it, require the executive decision taker to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Finance Officer.

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## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

The Council will have Overview and Scrutiny Panels as set out in Article 6 and will appoint members to them as it considers appropriate from time to time.

### **2. MEMBERSHIP OF OVERVIEW AND SCRUTINY PANELS**

Each Overview and Scrutiny Panel will comprise no more than 16 members of the Council with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. All Councillors except members of the Cabinet may be members of an Overview and Scrutiny Panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

### **3. MEETINGS OF OVERVIEW AND SCRUTINY PANELS**

Ordinary meetings of the Overview and Scrutiny Panels shall be held on such dates and times as may be specified in the Council's calendar of meetings. However, such dates and times may be varied at the discretion of each Panel or its Chairman. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Panel meeting may be called by the Chairman of the relevant Overview and Scrutiny Panel, by any 3 members of the Panel or by the Head of Paid Service if he/she considers it necessary or appropriate.

### **4. QUORUM**

The quorum for an Overview and Scrutiny Panel shall be as set out for Committees etc. in the Council Procedure Rules in Part 4 of this Constitution.

### **5. CHAIRMEN AND VICE-CHAIRMEN OF OVERVIEW AND SCRUTINY PANELS**

The Chairman and Vice-Chairman of the Overview and Scrutiny Panels will be drawn from among the Councillors sitting on the Panel and, subject to this requirement, each Panel may appoint such persons as it considers appropriate as Chairman and Vice-Chairman.

### **6. WORK PROGRAMME**

The Overview and Scrutiny Panels will be responsible for setting their own work programme and in doing so shall take into account the wishes of all members on that Panel irrespective of any political affiliation.

### **7. AGENDA ITEMS**

A member may raise an item on an Overview and Scrutiny Panel agenda in accordance with the Councillor Call for Action (CCFA) procedure, as detailed in the guide to CCFA attached to the Council Procedure Rules as Annex (iv).



## **8. REQUESTS FROM COUNCIL/CABINET TO REVIEW AREAS OF ACTIVITY**

The Overview and Scrutiny Panels must 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. Such requests will be put in writing to the Chairman of the relevant Overview and Scrutiny Panel. Where a request is agreed to, the Overview and Scrutiny Panel shall report their findings and any recommendations back to the Council and/or Cabinet. If practicable, the Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Panel at their next ordinary meeting after its receipt or at the ordinary meeting after that.

## **9. POLICY REVIEW AND DEVELOPMENT**

The role of the Overview and Scrutiny Panels in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Panels may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference.

Overview and Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and, provided appropriate financial provision is available in the budgetary framework, may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so within the allocation of funds approved by the Council.

## **10. OVERVIEW AND SCRUTINY PANEL REPORTS**

The flowcharts at Appendix A show the process for Overview and Scrutiny Panels to report their recommendations on proposals for consideration by Cabinet, Council or individual Cabinet Members with delegated decision making powers.

## **11. CABINET CONSIDERATION OF ISSUES ARISING FROM OVERVIEW & SCRUTINY**

Overview and Scrutiny Panels will have access to the Cabinet's Notice of Executive Decisions and timetable for decisions and intentions for consultation. Comments from Overview and Scrutiny Panels relating to items on the Cabinet's agenda will be included for consideration in the relevant Cabinet reports.

## **12. RIGHTS OF OVERVIEW AND SCRUTINY PANEL MEMBERS TO DOCUMENTS**

In addition to their rights as Councillors, members of Overview and Scrutiny Panels have the additional rights to documents and to notice of meetings as

set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

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

### **13. MEMBERS AND OFFICERS GIVING ACCOUNT**

An Overview and Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role a Panel or its Chairman (or in his/her absence, the Vice-Chairman) may require any member of the Cabinet, the Head of Paid Service and any senior officer to attend before it to explain in relation to matters within their remit:-

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

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

Where any member or officer is required to attend an Overview and Scrutiny Panel meeting under this provision, the Chairman (or in his/her absence, the Vice-Chairman) of that Panel will inform the Performance, Policy & Transformation Manager (Scrutiny). The Performance, Policy & Transformation Manager (Scrutiny) shall inform the member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require a report to be produced, the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Chairman of the Overview and Scrutiny Panel (or in his/her absence, the Vice-Chairman) shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of two months from the date of the original request.

Where an Overview and Scrutiny Panel is reviewing work of the Council which is not a function of the Cabinet, it should not normally scrutinise individual decisions made by the Council or any committee or panel thereof, particularly decisions in respect of development management, licensing, registration, consents and other permissions. In making reports and recommendations on functions which are not the responsibility of the Cabinet, such reports and recommendations should normally be used as part of wider policy reviews.

### **14. ATTENDANCE BY OTHERS**

An Overview and Scrutiny Panel may invite other people to address it, discuss issues of local concern and/or answer questions. It may, for example, invite Councillors who are not members of the Cabinet, residents, stakeholders, members or officers in other parts of the public sector to attend.

## **15. CALL-IN**

When a decision is made by the Executive Leader, Cabinet, an individual Cabinet Member or a committee of the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet or under joint arrangements, the decision shall be published, made available at the Council's main offices and sent to Members of the Overview and Scrutiny Panels within three working days of being made. The notice of decisions will bear the date on which it is published and will specify that the decision will come into force and be implemented on the expiry of five working days after publication, unless called in by a relevant Panel as shown in Appendix B.

## **16. CALL-IN AND URGENCY**

The call-in procedure set out above shall not apply where the decision being taken by the Executive Leader, the Cabinet, an individual Member of the Cabinet, a committee of the Cabinet or a key decision by an officer with delegated authority from the Cabinet or under joint arrangements is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one and therefore not subject to call-in. The Chairman of the relevant Overview and Scrutiny Panel or in his/her absence the Chairman of the Council 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 both the Chairman of the relevant Overview and Scrutiny Panel and the Chairman of the Council, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the relevant Overview and Scrutiny Panel together with the reasons for urgency.

## **17. PROCEDURE AT OVERVIEW AND SCRUTINY PANEL MEETINGS**

Overview and Scrutiny Panels shall consider the following business:-

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

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

- (a) that the investigation will be conducted fairly and all members of the Panel will be given the opportunity to ask questions of attendees and to contribute and speak;
- (b) that those assisting the Panel by giving evidence shall be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

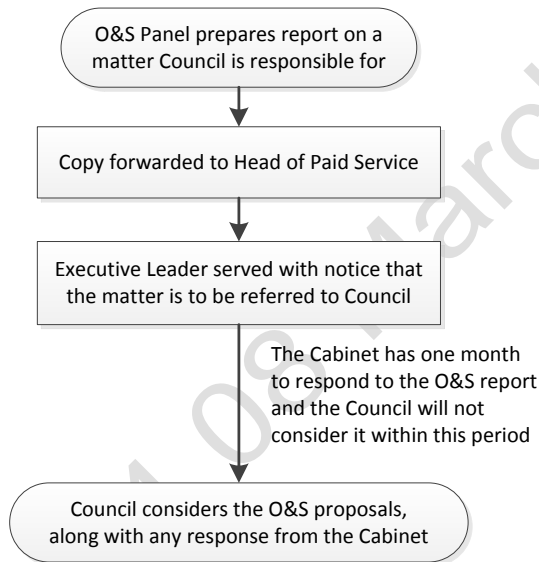
Following an investigation or review, an Overview and Scrutiny Panel may, if appropriate, prepare a report for submission to the Cabinet and/or Council as appropriate and may choose to make its report and findings public.

**18. MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY PANEL**

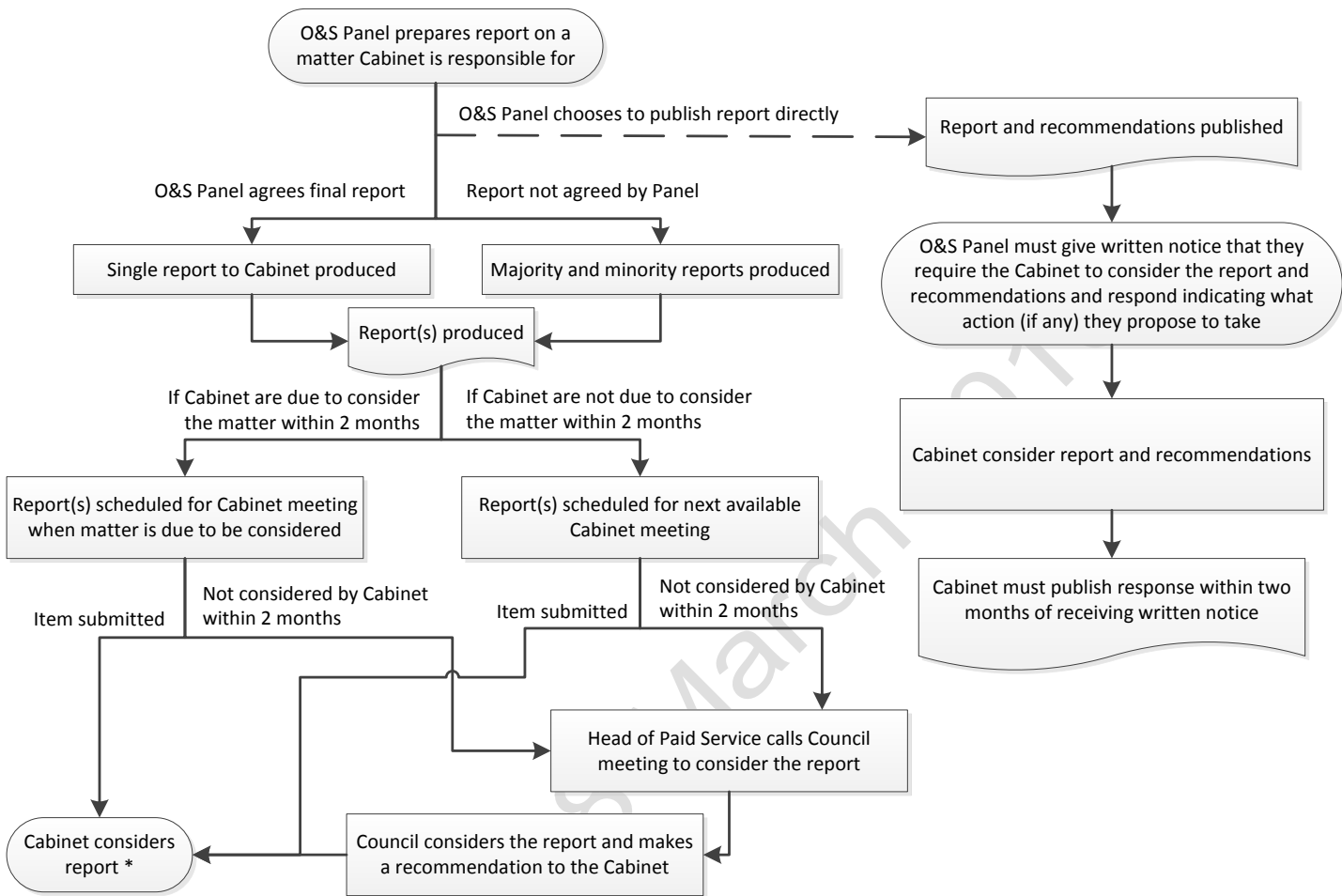
Where a matter for consideration by an Overview and Scrutiny Panel also falls within the remit of one or more other Overview and Scrutiny Panels, the decision as to which Overview and Scrutiny Panel will consider it will be resolved by the advisory group comprising the Chairmen and Vice-Chairmen of the Panels in accordance with Article 6.05 of this Constitution.

**Appendix A – reporting Overview and Scrutiny recommendations on proposals**

**Matters that Council is responsible for:**



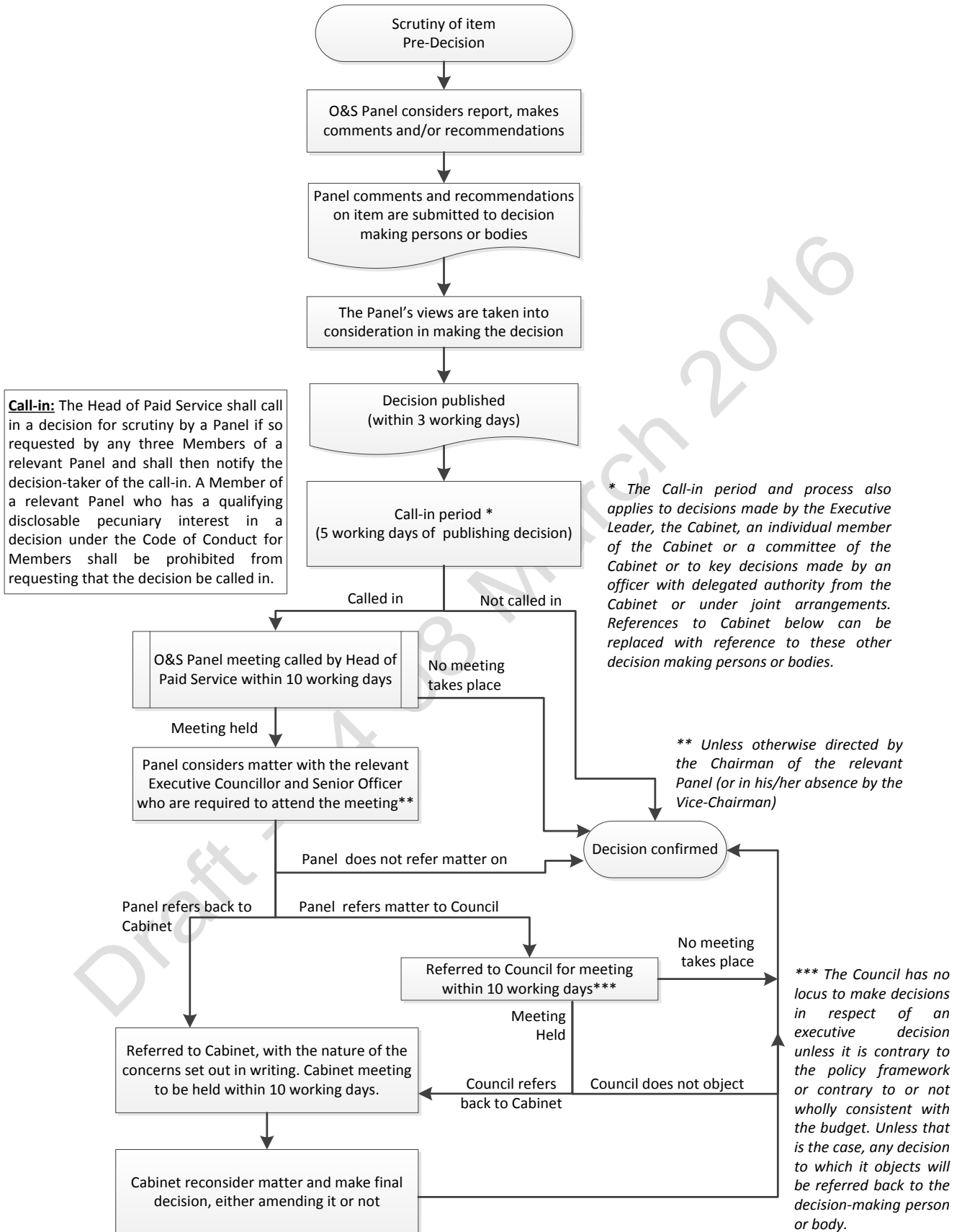
**Matters that Cabinet is responsible for:**



\* The Overview and Scrutiny Panel Chairman or his/her representative shall have a right to attend and address the Cabinet meeting on the report or recommendations of the Panel and shall be entitled to speak for up to five minutes.

Following consideration by Cabinet, the relevant Executive Councillor will provide a written response to each of the Overview and Scrutiny Panel's recommendations, including reasons where recommendations are not accepted.

## Appendix B – pre-decision scrutiny and Call-In processes



# Code of Financial Management

## 1. Financial responsibilities

### General

- 1.1. Before any proposal that affects the Council's financial position is made the body or person(s) responsible for making that decision, or for making a recommendation to that body or person(s), shall consider a written report, approved by the officer accountable for the appropriate budget, detailing the financial implications.

### The Council

- 1.2. Will:
- determine the Council's Medium Term Financial Strategy (MTFS), approve the annual budget and set the level of the council tax.
  - approve the Council's treasury management strategy (TMS) and prudential indicators.
  - approve changes to this code.

### The Corporate Governance Panel

- 1.3. Will:
- ensure that the financial management of the Council is adequate and effective.
  - ensure that the Council has a sound system of internal control including arrangements for the management of risk.
  - consider the Council's code of corporate governance and approve the annual statement.
  - approve the internal audit charter and the annual internal audit plan and comment on the external audit plan.
  - approve the Council's Annual Financial Report (AFR), which includes the statutory accounts.
  - consider reports from the external auditor.
  - recommend changes to this code to the Council.

### The Cabinet:

- 1.4. Will propose to the Council:
- the MTFS.
  - the annual budget and council tax level.
  - a combined annual report including the TMS, treasury management policy, and the prudential, treasury management and commercial investment strategy indicators.
  - after considering the views of the appropriate Overview and Scrutiny panel and representatives of the business community, set financial priorities, allocate and re-allocate resources in accordance with the limits in this code, monitor and review financial performance.
  - approve the risk management strategy.

### Overview and Scrutiny Panels

- 1.5. Will contribute to the development of, and review the effectiveness of, the Council's MTFS, treasury management and annual budget.

### Cabinet and Committees (and sub-committees)

- 1.6. Will ensure that all decisions within their remit are made within the relevant budgets and are consistent with achieving the Council's corporate plan and adopted policies. If they wish to make proposals that will require additional

resources, these will need to be subject to officers, the Cabinet or the Council making these available through the normal process.

#### **Budget Managers and Executive Councillors**

- 1.7. Will own and manage the budgets within their responsibility. Specifically, they will effectively plan and control financial activity to ensure efficient and effective use of resources. Budget managers should ensure that the full financial implications of all decisions are properly assessed and highlighted to decision makers.
- 1.8. Will take lead responsibility for planning the budgetary cycle, including monitoring and forecasting of revenue activity so far as it is related to those budgets.

#### **Members and Employees**

- 1.9. Will contribute to the general stewardship, integrity and confidence in the Council's financial affairs and comply with this code and any systems, procedures, or policies relating to the financial management of the Council.
- 1.10. Specifically, they shall bring to the attention of the Responsible Financial Officer (RFO) any act or omission that is contrary to the provisions of this code or the maintenance of high standards of financial probity, and provide information or explanation on matters within their responsibility to him/her, the Monitoring Officer (MO), Internal Audit Service or the Council's external auditors.
- 1.11. Any member or employee who is involved in a transaction with the Council, or who has an *interest* in a transaction between a third party and the Council, shall declare the nature and amount to the MO before any decision on the matter is made by the Council. The MO will advise the member or employee of any actions they should or must take.
- 1.12. For the purpose of this section an interest also includes any interest of a member of your family or a close associate or acquaintance. This shall be interpreted as anyone whom a reasonable member of the public might think you would be prepared to favour or disadvantage.

#### **The Monitoring Officer (MO) or, in their absence, the Deputy Monitoring Officer (DMO).**

- 1.13. Will report to the Council on any proposal, decision or omission that in their view is likely to result in a contravention of the law or any code of practice enacted under it, fails to comply with a legal duty, represents maladministration or is unjust, in accordance with section 5 of the Local Government and Housing Act 1989.
- 1.14. For these purposes he/she shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

#### **The Responsible Financial Officer (RFO) or, in their absence, the Deputy Responsible Financial Officer (DRFO).**

- 1.15. Will be responsible for the proper administration of the Council's financial affairs, prescribe appropriate financial systems, protocols, procedures and policies, maintain an internal audit service and report to the Council in the event of a decision or action leading to unlawful expenditure, a loss or deficiency or an unlawful accounting entry (in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Act 1988 and the Accounts and Audit Regulations).



- 1.16. Will be responsible for ensuring the final accounts are completed and published by the statutory dates and reporting the details of any material amendments specified by the external auditor to the Corporate Governance Panel.
- 1.17. For these purposes they shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.
- 1.18. The DRFO officer will be responsible for detailed and operational aspects of the administration of the Council's financial affairs on behalf of the RFO, approving new financial systems and undertaking such duties as are set out in this code.

**Budget Managers (Team Managers, Heads of Service, Corporate Directors and Managing Director)**

- 1.19. The Council's management structure is based on Team Managers, Heads of Service, Corporate Directors and the Managing Director taking responsibility for a service and its related budget. For the purpose of this Code they are referred to as budget managers. Whilst they retain ultimate responsibility they will often delegate appropriate tasks to their members of staff.

**The budget manager responsible for a budget:**

- will be responsible for proper financial and resource management and the prevention of fraud and corruption within the services and functions under their control and will be responsible for informing the Internal Audit & Risk Manager of all suspected or notified cases of fraud, corruption or impropriety.
- will be responsible for preparing and submitting the capital project appraisal form to the Finance Governance Board (FGB) for approval.
- will be responsible for developing and submitting a detailed business case to the FGB if required (following approval of the capital project appraisal form).
- may incur financial commitments and liabilities in accordance with this Code, the Council's scheme of delegation and resources allocated in their budgets. In particular they may make purchases of goods and services, subject to the requirements of the code of procurement, and employ staff, in accordance with HR policies and any CMT requirements.
- will need approval from their Head of Service in consultation with Corporate Director for appointments for vacant posts at Grade D and below.
- will need approval from CMT for the appointment to vacant posts of Grades E and above.
- will be responsible for regular and effective monitoring and forecasting of the financial position relating to their services.
- will, in accordance with the risk management strategy determine the inherent risks within their services, to the achievement of the Council's priorities and establish, maintain and document adequate systems of risk management and internal control, in consultation with the Internal Audit service, and ensure that relevant employees or Members are familiar with such systems.
- will be responsible for providing in a timely manner, the information necessary to ensure that the final accounts can be completed by the statutory deadlines.

- will be responsible for improving the value for money and efficiency of their services and in discussion with their accountant, ensuring that any budget adjustments are included in the following years budget process.
- will be responsible for identifying opportunities and then bidding for grants or contributions from other bodies to support the achievement of the Council objectives through their services.
- annually review their services to identify any aspects that are not currently charged for, but could be and the appropriateness of the current charges.
- annually review their fees and charges in consultation with the Executive Councillors, with any changes being included in and approved with the annual budget. Changes within the financial year will be subject to consultation with the Executive Councillors and approved by the RFO. In doing so, they:
  - ◆ shall ensure that relevant legislation that specifies the charges to be made or constrains them in any way is complied with.
  - ◆ shall, after having regard to the charges of any alternative service providers with whom the Council is competing, seek to maximise income, net of applicable costs, unless it will have a clearly detrimental impact on the achievement of the Council objectives.
  - ◆ may introduce differential pricing to particular client groups where these are expected to stimulate demand and generate additional net income which would otherwise not be obtained.
  - ◆ may set prices lower than could be reasonably achieved if this is demonstrably the most cost effective way of achieving Council objectives and the necessary funding is available. Use of this option requires approval of Cabinet.
  - ◆ may set fees and charges that allow an element of discretion if it can be demonstrated that this will lead to an overall benefit to the Council. It is important that any use of discretion is recorded so that it can be clearly shown that decisions have been made fairly and consistently.
  - ◆ shall keep appropriate records to demonstrate that the required actions have been undertaken and how the decisions were reached.
- will be accountable for the delivery of services, projects, contracts within the budgets set by the Council.
- will be accountable for financial performance and ensuring, wherever possible, appropriate comparisons are made against service standards or other organisational comparators.

#### **Internal Audit**

- 1.20. Will be responsible for providing an independent and objective opinion on internal control, risk management and governance systems. It will act in accordance with the internal audit charter and undertake reviews that focus on areas of greatest risk to the Council's control environment as contained within a programme agreed annually by the Corporate Governance Panel after consultation with the RFO and budget managers.
- 1.21. For these purposes internal audit shall have free, full and unrestricted access to services and functions and all Council assets, systems, documents, information, employees and Members. All employees are required to assist internal audit to carry out its role.

## **2. Financial and service planning**

### **In the Summer - Overall review**

- 2.1. The Cabinet shall review the financial performance of the Council in the previous year, compared with the annual budget, on the basis of the provisional outturn report prepared by the DRFO in conjunction with budget managers.

### **In the Autumn – Preparation of the draft budget and MTFS**

- 2.2. The RFO in conjunction with budget managers will review and prepare the draft annual budget and the MTFS for review by Cabinet after consultation with the relevant Overview and Scrutiny panel.

### **In the Winter - Annual budget, MTFS and service plans**

- 2.3. The Cabinet shall, after consultation with the relevant Overview and Scrutiny Panel, recommend to the Council an annual budget for the next financial year and a MTFS for the succeeding four years, incorporating both capital and revenue expenditure, which is consistent with corporate and service strategies. Following approval of the annual budget each budget manager shall update their service plan(s) to reflect the approved budget and how the resources allocated will be used to meet service objectives in the forthcoming year.

### **In the Spring – Annual Financial Report (AFR)**

- 2.4. The DRFO in conjunction with the budget managers will prepare the AFR. The AFR includes the statutory annual accounts which subject to external audit will be approved by both the RFO and Corporate Governance Panel.

## **3. Controlling financial plans**

### **Financial Monitoring**

- 3.1. Budget managers will be responsible for regular and effective monitoring and forecasting of the financial position relating to their services. Where it is identified that there will be a significant overspend or underspend, this will be promptly reported to the RFO by the budget manager. If it is considered necessary by the RFO in delivering projects or programmes, the same discipline will apply.
- 3.2. On a monthly basis the financial and overall performance of the Council will be reviewed by the budget managers and the relevant Executive Councillors. This will include trend and forecast data and, where available comparative data.
- 3.3. The CMT will review, on a monthly basis, the Financial Performance Monitoring Suite (FPMS). The FPMS will be reported to Cabinet on a quarterly basis. The FPMS will be prepared by the DRFO, in consultation with each Head of Service and budget manager to include comparisons with other service providers and local trend data.

### **Commitments to Expenditure in Future Years**

- 3.4. No new commitment to expenditure beyond the current budget year may be made unless it:
- is consistent with the achievement of the Council's objectives and other relevant strategies, and
  - is compatible with the Council's MTFS.

### **Grants, Cost Sharing and S106/CIL agreements**

- 3.5. Where a budget manager proposes to take advantage of:
- receipts of grants, contributions and other forms of external funding, or
  - enter cost sharing arrangements,
- 3.6. with other organisations, and where such arrangements will deliver additional or improved services, consistent with their service plan without creating any current or future commitment to net expenditure they may do so subject to:
- the relevant Head of Service being satisfied that the project funding meets with corporate objectives and that the resource required to produce the bidding documents is reasonable.
  - the funds being dependent upon a particular project or service being provided but, in the case of S106/CIL agreements, the location or some other aspect is at the Council's discretion.
  - informing the DRFO of the details.
  - consulting the relevant Executive Councillor(s) if the proposal exceeds £30,000 revenue or £50,000 capital in any one year with any capital having been previously agreed by the FGB or any discretionary element of a S106/CIL agreement.
- 3.7. A budget manager may utilise sums of money received under S106/CIL, or equivalent agreements where there is no discretion. The DRFO should be informed of the details including:
- A copy of all information that supports the grants received (grant letter etc) so a decision can be made in respect of the correct accounting treatment.
  - Documentation confirming how they plan to meet any grant conditions, including suitable monitoring and reporting arrangements.

### **Approvals for additional spending with a net impact**

- 3.8. The Managing Director, or in their absence, the RFO, may incur expenditure for the immediate alleviation of hardship or suffering in the case of peacetime emergency in the district. Any exercise of this power must be reported to the Cabinet (under £500,000) or the Council (over £500,000) at the first opportunity.
- 3.9. The Managing Director, or in their absence, the RFO, may incur expenditure of up to £500,000 for any purpose which is urgent and demonstrably in the Council's best interests to do so following consultation with the Executive Leader or Deputy Executive Leader. Any exercise of this power must be reported to the Cabinet at the first opportunity.

### **Approvals for additional spending with compensating savings**

- 3.10. Proposals that require initial funding but will then result in net surpluses or savings that are at least sufficient to produce a break-even position will be supported in principle if they are:
- consistent with increasing the achievement of the Council's objectives and compatible with relevant strategies.
  - achievable within the Council's MTFs.
  - supported by a robust business case which includes a risk assessment.
  - supported by the CMT.

- 3.11. The RFO may approve such a scheme following consultation with the relevant Executive Councillor for the service and the Executive Councillor for Resources. The relevant budget(s) and MTFs will be appropriately adjusted.

### **Budget Virements**

- 3.12. The process of moving budget resources between different areas within the budget year is called a virement. The virement of resources within, or between, any of the types of budgets is supported in principle when it will make it more likely that the Council will achieve its service objectives and targets or enhance value for money.

- 3.13. These limitations are:

- The salary budgets (pay, national insurance and pension) represent the Councils approved establishment list. As such the salary budgets cannot be vired to other areas of the budget. A positive salary budget variance may be used to cover the additional temporary staffing costs incurred due to vacant posts.
- The corporate finance budgets are those budgets that are necessary to the operation of the Council and have limited controllability. Such budgets included with this area are; minimum revenue provision, interest, pension liability and levies. Changes to the corporate budget can only be made by the RFO following consultation with the Head of Paid Service.
- Not from capital to revenue.

- 3.14. A budget manager may approve a budget virement within and between the budgets they are responsible for providing it is:

- Consistent with increasing, or at least maintaining the achievement of service objectives and compatible with the Council's financial and other relevant strategies.
- Only a movement of establishment posts to another service as part of a service restructure.
- Notified to the DRFO.
- Each virement is over £5,000.
- Within the following limits if between service budgets:

- Revenue to revenue £75k
- Revenue to capital £75k
- Capital to capital £75k

- 3.15. The CMT may, subject to the same criteria, except for the enhanced limits shown below, approve budget virements between any budgets:

- Revenue to revenue £250k
- Revenue to capital £250k
- Capital to capital £250k

- 3.16. Cabinet may approve budget virements of up to:

- Revenue to revenue £500k
- Revenue to capital £500k
- Capital to capital £500k

- 3.17. In all cases, any previous transfers in the same financial year relating to those budgets shall be aggregated for determining whether the limit has been exceeded. Providing there is no increase in the "budget requirement", Cabinet

can approve the application of reserves to meet additional expenditure in line with the reserves strategy.

- 3.18. In all other cases the approval of the Council will be required.

#### **Price Base Changes**

- 3.19. Inflation will be included, if necessary during the budget process as directed by the RFO.

#### **Capital Programme**

- 3.20. The FGB will review and recommend to CMT those schemes that should be included in the capital programme, the MTFS and be approved by Cabinet.

- 3.21. FGB may recommend changes to existing schemes or the introduction of new schemes during the financial year based on the performance of, or delays incurred within the delivery of the approved capital programme plan. Changes to the schemes in the MTFS will be approved by Cabinet.

### **4. Cash and credit management**

#### **Banking**

- 4.1. The RFO is responsible for all Council banking arrangements and shall maintain an account(s) with an appropriate bank(s) as defined in the TMS. All transactions involving income or expenditure shall be dealt with through the Council's bank account(s).

#### **Income**

- 4.2. All employees receiving money (including cash, cheques, credit card payments etc.) must comply with the relevant procedures issued by the RFO to ensure that the sums are properly recorded, receipted and banked.

- 4.3. No cash payment in excess of £1,000 will be accepted.

- 4.4. The Head of Customer Services will manage the Council Tax and Non-Domestic Rating collection service on behalf of the Council; including the billing and debt recovery procedures.

- 4.5. The DRFO shall manage a sundry debt collection service on behalf of the Council and all sums due must be registered by raising an invoice on the Council's financial management system.

- 4.6. All budget managers are required to ensure that:

- Invoices and invoice adjustments are raised promptly.
- Invoice queries are answered promptly.
- The Sundry debt team are informed of any information that may affect the recovery of any invoiced sums.
- All debts are collected in a timely fashion.
- They periodically consider, in liaison with the Sundry debt team, whether there would be a more effective or efficient way of collecting sums due (e.g. cash in advance).

#### **Treasury Management**

- 4.7. All treasury management activities will be undertaken in accordance with the Council's annual TMS, which includes the policies, objectives, risk management approach, and the prudential, treasury management and

commercial investment strategy indicators. The strategy will comply with the Code of Practice for Treasury Management and the Prudential Code for Capital Finance, both published by the Chartered Institute of Public Finance and Accountancy (CIPFA), and reflect any published Government advice. The execution and administration of treasury management is delegated to the DRFO.

- 4.8. The Council shall have overall responsibility for treasury management and will formally approve the annual TMS and receive an annual and mid-year report on treasury management activities.
- 4.9. The Cabinet will be responsible for the implementation and regular monitoring of treasury management activity. The Treasury & Capital Management Group will include:
- the Executive and Deputy Leaders and the Executive Councillor responsible for resources. Other members can be co-opted onto the group at the discretion of the Executive Leader.
  - the RFO and the DRFO, and as and when necessary the Managing Director and/or Corporate Director (Services). Other officers can be co-opted onto the group at the discretion of the Managing Director or the RFO.
- 4.10. The Overview and Scrutiny (Financial and Performance) Panel will be responsible for the scrutiny of treasury management.

#### **Payments**

- 4.11. All payments made by the Council must be made either:
- through the Council's purchase ledger system, with payments being made direct to the supplier's bank account wherever this is practicable.
  - by procurement card.
  - by direct debits or standing orders (after agreement from the DRFO).
  - by some other system specifically approved by the DRFO.
- 4.12. In each case complying fully with the relevant procedures for that system (e.g. appropriate authorisation), particularly the requirement to obtain official VAT receipts, as determined by the DRFO. Advice can be sought from the DRFO.

### **5. Accounting requirements**

#### **Best Practice**

- 5.1. The Council will follow the best practice guidance contained in the Accounting Code of Practice and other relevant publications produced by CIPFA in the preparation and maintenance of its accounts.

#### **Records**

- 5.2. Each budget manager is responsible for maintaining records of their financial transactions and commitments, that they are in the appropriate financial period and with the appropriate account codes. Each budget manager is responsible for ensuring that the financial management system is used only by authorised individuals and for proper council purposes.

#### **Retention of Documents**

- 5.3. Documents required for the verification of accounts, including invoices, will be retained for six years plus current year.

### **Contingent Assets and Liabilities**

- 5.4. Any officer who is aware of a material and outstanding contingent asset or liability shall notify the DRFO, who shall include details in the Council's accounts or in a Letter of Representation to be presented to the Council's external auditors in respect of those accounts.

### **Stock**

- 5.5. The DRFO shall determine, after consultation with the relevant budget manager, when stock accounts shall be maintained. This will normally be where the value of the items are significant or the items are considered to be vulnerable to loss or theft.
- 5.6. In such cases the relevant budget manager shall ensure that a certified stock-take is carried out at the end of March each year, and that records of receipt and issue of all stock are maintained throughout the year in a manner agreed with the DRFO.

### **Insurance**

- 5.7. The Internal Audit Manager shall obtain insurance to protect the Council or minimise its potential losses from risks including those to employees, property, equipment and cash. Any decision not to insure significant risks must be based on a detailed risk assessment and reported to the Executive Councillor for resources.

### **Write-off of Irrecoverable Debts**

- 5.8. The Head of Service where the debt originated or the DRFO is authorised to write-off debt with an individual value up to £5,000. Greater than £5,000 requires consultation with the Executive Councillor for Resources. Appropriate steps must be taken to ensure that the debt is irrecoverable or cannot be recovered without incurring disproportionate costs.

### **Accounts Closure, Accounting Accruals and Estimates**

- 5.9. The AFR will be produced in line with both statutory regulations and relevant Codes of Practice.
- 5.10. The DRFO will ensure that there is appropriate liaison with service teams prior to closure, including the hosting of relevant training and the issue of closure guidance and timetables. The accruals de-minimis limits will be adhered to by all services, and where estimated accruals are to be issued they are to be supported by accurate calculation. Other accounting estimates will be calculated by finance staff in line with professional advice.
- 5.11. Provisions, either for bad debts or other purposes will be calculated in line with the guidelines approved by the DRFO. Earmarked reserves will be operated in line with the reserves strategy.

### **Assets**

- 5.12. An asset is an item of land, building, road or other infrastructure, vehicle or plant, equipment, furniture and fittings or information and communications technology (hardware and software) with a life exceeding one year.
- 5.13. The acquisition and disposal of assets will be completed in accordance with the Disposal and acquisition policy.
- 5.14. The financial thresholds for both disposals and acquisitions are as follows:



- Managing Director (as Head of Paid Service) & Head of Resources (as RFO), following consultation with Executive Councillor for Resources **£0 - £500,000**
- Treasury and Capital Management Group **£500,000 to £2,000,000**
- Cabinet **£2,000,000 +**

5.15. Each budget manager is responsible for ensuring that the assets relating to their services are properly safeguarded, managed and maintained, and used only to achieve the Council's objectives. This will include establishing and maintaining appropriate security, control systems and records. They will need to consult relevant officers in relation to specialist items and, where vehicles are concerned, the officer holding the Council's operating certificate who has specific statutory responsibilities.

5.16. Heads of Service must keep up to date records so a physical verification of all capital assets, and their condition, is possible.

5.17. Once the asset is disposed of, the relevant budget manager will inform the DRFO within 10 working days of the disposal of any asset included in the asset register.

#### **Capital Expenditure**

5.18. The purchase or improvement of any asset will normally be treated as capital expenditure. However, expenditure of less than £10,000 will not normally be treated as capital expenditure unless the DRFO considers it is in the Council's interests to do so.

#### **Leases**

5.19. Finance and operating leases are to be used only if they are in the Council's financial interest and with the prior formal approval of the DRFO.

#### **Valuations**

5.20. In order to comply with accounting requirements assets will need to be revalued at regular intervals. A three year "phased" revaluation programme will be followed, other than for:

- those assets that are categorised as "investment" properties (e.g. industrial units), which must be revalued every year, or
- where, following significant capital investment or disinvestment in an asset within an asset group, whereby the whole asset group will be revalued.

5.21. All capital asset revaluations for the AFR will be obtained by the DRFO.

Draft - v4 08 March 2016

# CODE OF PROCUREMENT

## 1. INTRODUCTION

- 1.1 The Code of Procurement defines the regulatory and legal framework for procurement. It has been adopted in accordance with the requirements of Section 135 (2) of the Local Government Act 1972.
- 1.2 Throughout the Code, reference to Manager shall mean Managing Director, Corporate Director, Head of Service or Budget Manager as appropriate. A Manager shall be responsible for procuring all goods and services that require the quotation or tender procedures as set out in this Code to be followed.
- 1.3 No Manager shall procure any goods or services valued at £5,000 or more unless they have attended training provided by the Procurement Manager and consider themselves to have such detailed knowledge and understanding of this Code and how it shall be applied in respect of the total value of the procurement being considered.
- 1.4 This Code applies to the procurement, commissioning, hire, rental or lease of -
- ◆ land and buildings, roads or other infrastructure;
  - ◆ vehicles or plant;
  - ◆ equipment, furniture and fittings;
  - ◆ construction and engineering works;
  - ◆ information and communication technology - hardware and software;
  - ◆ goods, materials and services;
  - ◆ repairs and maintenance;
  - ◆ consultants, agents and professional services.
- 1.5 This Code does not apply to purchases made from internal management units.
- 1.6 The Code applies also to the sale of assets and goods by the Council where the appropriate Manager estimates that the assets, goods or services to be sold exceed £1,000. Where the value is estimated to be less than £1,000 then the 'Sale of Equipment' procedures contained within the Inventory procedures shall be followed.
- 1.7 The Council includes the Cabinet, Panels, Committees or other body or person(s) acting in accordance with delegated authority on behalf of the Council.
- 1.8 All procurements or sales made by or on behalf of the Council shall comply with this Code, subject to any overriding requirements of the Council's Rules of Procedure and Code of Financial Management and British or European Union law or regulation.
- 1.9 Throughout the Code, reference to contractor(s) or sub-contractor(s) shall mean any person, company or supplier who has -
- ◆ requested to be on an approved or ad-hoc approved list of tenderers;
  - ◆ been approached to provide a quotation or tender;

- ◆ provided a quotation or tender; or
- ◆ been awarded a contract in accordance with the provisions of this Code.

1.10 The Monitoring Officer shall annually review all the financial values contained in the Code to take account of the impact of inflation. The Monitoring Officer shall inform all Managers of any amendments to the values prior to the 1st April from which they shall be operative.

## 2. REPORTING AND ADVERTISING

2.1 Heads of Service shall provide the following information to the Procurement Manager

- ◆ No later than the 1 April each year, details of each contract expected to be advertised in the following year; and an estimate of the total value for each discrete procurement area where the spend is likely to exceed £100,000.
- ◆ new or additional requirements likely to meet or exceed EU thresholds as they arise.

2.2 The Public Procurement Regulations 2015 (Statutory Instrument no. 102 2015) requires that contracts above EU threshold are advised in the Official Journal of the European Union and that any contract opportunity above £25,000 is advertised in the Cabinet Office's portal "Contracts Finder". For requirements estimated as above £5,000 Managers shall advertise in the Contracts Register where needed to stimulate competition and obtain best value. There is no requirement to advertise competitions run using frameworks or approved lists.

Media	Threshold		
	Supplies and Services	Works and Concessions	Light Touch Regime Services
Contracts Register	£5,000	£5,000	£5,000
Contracts Finder	£ 25,000	£ 25,000	£25,000
Official Journal of the European Union (OJEU)	£ 164,176	£ 4,104,394	£597,609

(1 January 2016)

## 3. 'BEST VALUE' AND SOURCING POLICY

3.1 The Council seeks 'Best Value' in all procurement activity. 'Best Value' being:

- ◆ The opportunity to obtain leverage (better prices and) for volume.
- ◆ Regulatory compliance.
- ◆ Transparent and efficient procurement processes.

- ◆ Appropriate social, environmental and equality outcomes.
  - ◆ Minimum procurement overhead.
- 3.2 Achieving 'Best Value' needs valid competition and valid competition is dependent on the existence of an 'open' market with the selected contractors having the interest, capability and capacity for the work or business being offered. Wherever possible a minimum of three competitive tenders or quotations shall be sought. In selecting contractors to provide a tender or quotation Managers shall ensure that wherever possible -
- ◆ the selection process they are using is fair and equitable, and that no favouritism is shown to any one contractor (e.g. the requirement is not an extract of a contractor's product specification).
  - ◆ checks are made to ensure that contractors are interested in this type of business;
  - ◆ repeat or 'automatic' invitations to the 'same' contractor or group of contractors are avoided, particularly where previously invited to bid and had failed to do so;
  - ◆ 'new' contractors are sought and invited to tender or quote;
  - ◆ the geographic area of the search for potential contractors is widened; and
  - ◆ 'no-bids' are checked for the reasons for a contractor's failure to bid.
- 3.3 Sourcing policy is determined by the needs of 'Best Value' and in order of preference is:
- (a) Adopted catalogues or framework contracts. An adopted catalogue or framework is the preferred contract for the Council's business within a defined category (a type or group of goods or service). The Procurement Manager shall make available adopted catalogues or framework contracts on the e-marketplace or publish details of the contract or framework in Procurement Protocols & Guidelines. Managers shall ensure that orders for such categories are placed through the e-marketplace using appropriate 'adopted' catalogue or framework contract. The Procurement Manager shall keep under review the continued suitability of any such catalogues, contracts or framework agreements.
  - (b) Collaborative procurements with other public bodies or authorities.
  - (c) Council let corporate contracts.
- 3.4 Some categories are managed corporately by specialist areas. The Procurement Manager shall provide a list of specialist categories and Managers shall ensure all requirements for such categories are referred to the relevant specialist.

### **Market Sounding**

- 3.5 Market engagement is encouraged to help achieve Best Value though trying to understanding the market, the suppliers, their business models and their costs
- 3.6 Supplier Meetings/Briefings. To avoid the risk of unfair competitive advantage, any such meeting should be structured as an open event; all questions and answers recorded and with a minimum of 2 officers present. If pre-competition

a minimum of 3 suppliers shall be invited and during a competition, all participating contractors shall be invited.

#### **4. METHODS OF ORDERING**

4.1 All orders shall be placed through one of the following recognised methods:

- ◆ An order raised on the e-marketplace.
- ◆ A procurement card order.
- ◆ A manual purchase order.
- ◆ A purchase order raised on the financial management system.

4.2 Where there is an exception requirement and the relevant Corporate Director or Head of Service considers that the work is of an emergency nature necessary to enable the service to continue and none of the ordering methods are suitable, the relevant Corporate Director or Head of Service shall record the details of the exceptional requirement and the action taken for future audit.

#### **5. CONTRACTS REGISTER**

5.1 In compliance with the Local Government Transparency Code 2013, Managers shall keep a record using the Contracts Register, for all tenders and quotes greater than £5,000 (and subsequent contract extensions); of:

- ◆ the reasons (if appropriate) for not advertising on the Council's 'Latest Opportunities' internet site;
- ◆ all those contractors that were requested to quote or tender;
- ◆ the reasons why those particular contractors were selected to quote or tender;
- ◆ if applicable, the reasons why less than three contractors were selected to quote or tender;
- ◆ if the selected contractor is a Small or Medium Enterprise, voluntary or third sector organisation or charity;
- ◆ if the selected contractor is VAT registered;
- ◆ contract renewal date (if appropriate);
- ◆ summary details of a single tender/quote (if appropriate), and
- ◆ file or other reference to the contract and location of the documents and contract.

5.2 Any procurement estimated to exceed £75,000, which is not covered by the exceptions in paragraph 6 below, must be referred to the Procurement Manager before the procurement process is commenced. If a Manager does not wish to accept the Procurement Manager's advice on any significant aspect the matter will be determined by the relevant Corporate Director. The discussion will cover:

- ◆ Scope and objectives of the procurement;
- ◆ Budget and costing;
- ◆ Tender methods;

- ◆ Product and market information;
- ◆ Timescales; and
- ◆ Deliverables.

5.3 Where there is no adopted contract or framework, Managers shall, wherever practicable, seek to maximise contract values with other Managers to secure lower costs. The Council nevertheless wishes to balance the effort of going to the market with the effort and efficiency of the procurement process. Managers after determining the proposed contract's total value shall then follow one of the procurement procedures detailed below. These procedures shall be used in all procurements or sales bar those exceptions at paragraph 6.

	<b>Procedure</b>	<b>Estimated Total Value of Procurement</b>	<b>Requirement</b>
(a)	Estimate	Up to £5,000	At least 1 written estimate or offer (e-marketplace, email, web or paper) shall be sought and recorded.
(b)	Request for Price (Informal Quote)	£5,000 up to £25,000	At least 3 written estimates or offer (e-marketplace, email or headed paperwork) shall be sought.
(c)	Request for Quote (Formal Quote)	£25,000 to £75,000	At least 3 formal quotations or offers shall be invited, unless the Manager has complied in full with paragraph 6 of this Code. The Manager will consider whether the nature of the procurement is such that a full competitive tendering would be likely to be beneficial to the Council by reducing cost (by more than the cost of tendering) or risk.
(d)	Tender	£75,000 to EU Procurement Threshold	Competitive tenders shall be obtained using one of the tendering options in this Code, and a formal written contract prepared in accordance with paragraph 13.2.
(e)	EU tender	The EU Threshold and above	The appropriate EU procurement directive shall be complied with.

5.4 Total value is the cost of all elements of the procurement (e.g. installation, testing, training, maintenance, etc). The Manager shall ensure that a procurement is not split or otherwise disaggregated and may choose to competitively tender requirements less than £75,000.

5.5 A Manager shall not invite quotations or tenders from any contractor or sub-contractor who has participated in the preparation of documentation or were

involved in other preparatory work for the contract, unless they have, in writing, explained to the Monitoring Officer why this does not constitute an unfair competitive advantage or a conflict of interest and obtained agreement, in writing, that the contractor/sub-contractor may compete in the quote/tender process.

## 6. TENDER AND REQUEST FOR QUOTATION PROCEDURES

6.1 **Exceptions.** Nothing in this Code shall require tenders/quotes to be sought: -

- (a) for purchases made from a Public Purchasing Body (ESPO, PRO5, Crown Commercial Service) where:
  - ◆ there is a single supplier 'call-off contract' or catalogue created with fixed prices, or
  - ◆ the contract is created to our requirements;
- (b) for purchases through local authority, government body or agency, police, health or other similar public authority, where the procurement rules of that organisation have been approved by the Procurement Manager and the contract is created in co-operation, agreed joint requirements or partnership;
- (c) for purchases made at public auction.

6.2 Provided that a compliant procurement process is underway a contract may be extended to complete procurement and contract negotiations by up to 3 months subject to agreement of the Procurement Manager.

6.3 **Single Tenders/Quotes.** All single tenders/quotes shall be reported to and recorded by the Procurement Manager in a register kept for that purpose.

### 6.4 **Head of Service Approval.**

A Head of Service can approve a single tender/quote:

- (a) if the Head of Service considers that the work is of an emergency nature or is necessary to enable the service to continue and is reported to the next meeting of Cabinet.
- (b) for ongoing maintenance of propriety systems provided:
  - ◆ there is evidence that it is a propriety system;
  - ◆ the initial contract award was compliant with this Code;
  - ◆ the renewal is for a period not greater than 4 years (this is the time interval the EU uses to calculate contract value for ongoing contracts);
  - ◆ the total ongoing value does not exceed the EU threshold.
- (c) where a single expression of interest is received for a competition run in accordance with the quote procedures (paragraphs 5.3 (a) & (b)) provided that:
  - ◆ a clear description of the requirement has been advertised (paragraph 2.2) for an adequate period;



- ◆ the sole prospective supplier is kept unaware of their status;
  - ◆ the process for seeking the quote is compliant.
- (d) where a new extension is proposed to a contract awarded under quote procedures (paragraphs 5.3 (a) & (b)) provided:
- ◆ the value of the proposed and all previous extensions to the contract are not greater than 10% of the advertised requirement;
  - ◆ the extension does not materially change the nature of the contract;
  - ◆ the initial contract award was compliant with this Code.
  - ◆ the extension is recorded in the Contracts Register.

#### 6.5 Monitoring Officer Approval.

A Head of Service after consulting the Monitoring Officer may obtain a single tender or quotation when:

- (a) Prices are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available.
- (b) Work to be executed or goods, services or materials to be supplied consist of repairs to or the supply of parts of existing proprietary machinery, equipment, hardware or plant and the repairs or the supply of parts cannot be carried out practicably by alternative contractors.
- (c) Specialist consultants, agents 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 Council's best interest to engage a particular consultant, agent or adviser.
- (d) Products are sold at a fixed price, and market conditions make genuine competition impossible.
- (e) The proposed contract shall form part of a serial programme. The contract terms shall be negotiated with a contractor, using as a basis for negotiation the rates and prices contained in an initial contract that was awarded following a competitive tendering process that complied with this Code. No more than two serial contracts shall be negotiated from an initial contract.
- (f) No satisfactory alternative is available. If the single quote/tender option is used, the Manager shall:
  - ◆ seek approval of the Monitoring Officer;
  - ◆ retain records that demonstrate that the best price or value for money has been obtained from the negotiations with the contractor.
- (g) With the Monitoring Officer's agreement, considers that it is in the Council's best interest in negotiating a further contract for works, supplies or services of a similar nature with a contractor who is currently undertaking such work and is reported to the next meeting of cabinet

## **7. LIST OF APPROVED TENDERERS**

7.1 Tenders shall be invited from at least three contractors selected from an approved list established in accordance with this paragraph of the Code. Vetting is not normally required as the contractor was vetted to join the list.

7.2 The Council uses 2 types of list of approved contractors:

- (a) Third party vetted lists of contractors that are compiled and maintained by an external organisation. Only external organisations approved by the Procurement Manager, after consultation with other relevant Manager(s) shall be adopted. The Procurement Manager shall ensure that the external organisation and approved list of contractors is detailed in Procurement Protocols & Guidelines.
- (b) Ad-hoc list of approved tenderers. If a Manager believes that the approved list of tenders does not allow him to obtain sufficient competition for 'Best Value', the Manager shall write to the Procurement Manager seeking approval to source additional contractors or create an ad-hoc list of approved tenderers.

7.3 Subject to approval as required in paragraph 7.2(b) the Manager shall:

- ◆ issue a public notice inviting applications for inclusion on a specific approved list for the supply of goods, services or materials.
- ◆ vet (as detailed at paragraph 9.1) all contractors replying to the public notice or who have requested within the previous 12 months to be considered for work of a similar nature;
- ◆ only include contractors satisfactorily completing the checks;
- ◆ tell all potential suppliers how the approved list operates
- ◆ ensure the ad-hoc list shall only be used for seeking tenders for the supply of goods, services or materials specifically detailed within the original public notice;

7.4 The Procurement Manager in conjunction with the relevant Managers shall review the continued suitability of any List of Approved Tenderers periodically and at least prior to the third anniversary of its initial or further adoption.

## **8. FRAMEWORKS**

8.1 All contractors on the framework (or lot if split into lots) shall be invited to submit a tender or quotation unless:

- ◆ the framework explicitly permits direct award;
- ◆ the proposed award is less than the tender threshold (£75,000); and
- ◆ the Head of Service can show both objective reasons for the selection of a supplier and evidence of best value.

8.2 No public notice is required and general Terms & Conditions are set in the original framework contract but additional Terms & Conditions specific to the requirement may be permitted. Vetting is not normally required as the contractor was vetted as part of the original framework competition.

## **9. COMPETITION**

### **9.1 Shortlisting and Restricted Tenders**

- (a) Restricted (shortlisting) tenders are not permitted for competitions below the EU threshold.
- (b) Where allowed, the Manager shall undertake sufficient vetting to ensure that all contractors:
  - ◆ comply with minimum standards of Insurance;
  - ◆ have the necessary Health & Safety policy and performance and (where applicable) membership of the Contractor's Health and Safety Scheme or equivalent health and safety standard;
  - ◆ are financially viable based on a risk based assessment;
  - ◆ have an appropriate environmental policy;
  - ◆ comply with equalities legislation and policy; and
  - ◆ possess the experience and capacity required.
- (c) The Procurement Manager shall provide an appropriate questionnaire for the purpose of vetting contractors.
- (d) Managers wishing to have a Pre-Qualification Questionnaire returned in electronic format (eg: Excel) must tell bidding suppliers to use the designated email address "procsupport@huntingdonshire.gov.uk" and inform the Procurement Manager of the closing date. The Procurement Manager shall forward the Pre-Qualification Questionnaires to the Manager after the closing date.

### **9.2 Open Tenders/Quotes**

- (a) Provided the Manager complies with paragraph 2.2 and is satisfied that Expressions of Interest received represent contractors with genuine interest and capacity, then no further public notice is required. Otherwise public notice may be given in one or more newspapers and/or in an appropriate trade journal. The notice shall state the nature and purpose of the contract, where further information and documentation can be obtained, and state the closing date for the process.
- (b) An Invitation to Tender (ITT) or Request to Quote (RFQ) shall be sent to all contractors expressing an interest. ITTs and RFQs may include an appropriate suitability questionnaire. The Procurement Manager shall provide a suitable questionnaire.

### **9.3 Invitations to Tenders (ITT) and Requests for Quotations (RFQ)**

Managers shall ensure that all ITTs and RFQs include;

- (a) approved contract terms in accordance with paragraph 13.2 of this Code;
- (b) a clear statement that explains if the bid is to be evaluated on the basis of the most economically advantageous tender (best value).

#### **9.4 Evaluation Criteria**

Except where the Cabinet decides otherwise, all formal quotations or tenders that are being sought shall:

- (a) be based on a definite written specification, which shall include consideration (where relevant to the requirement) of:
  - ◆ environmental performance including low energy and water consumption and the elimination of substances hazardous to health and the environment.
  - ◆ delivery of social benefit (for services only)
  - ◆ inclusion of Small & Medium sized Enterprises
- (b) include award criteria,
- (c) include specific weightings applied to individual award criteria, and
- (d) if appropriate, include a requirement for a performance bond and liquidated damages

#### **9.5 Non-Traditional Procurement**

If a Manager believes that by following one of the procurement procedures detailed in paragraph 9 above that the procurement process will not provide him with the most appropriate method of delivery, the most competitive prices, allow for continuous improvements in delivery, or stifle innovation, then they may suggest alternative procurement strategies.

The Manager shall produce in accordance with guidance issued by the Procurement Manager and prior to proceeding with the procurement, a written acquisition strategy that shall be approved by the Monitoring Officer and the Cabinet.

### **10. SUB-CONTRACTS AND NOMINATED SUPPLIERS**

- 10.1 Quotations or tenders for sub-contracts to be performed or for goods, services or materials to be supplied by nominated sub-contractors shall be invited in accordance with this Code.
- 10.2 The relevant Manager is authorised to nominate to a main contractor a sub-contractor whose quotation or tender has been obtained in full accordance with this Code.

### **11. RECEIPT AND OPENING OF TENDERS AND QUOTATIONS**

- 11.1 Contractors shall be notified that tenders or formal quotations are invited in accordance with this Code. No tender or formal quotation will be considered unless -
  - (a) it has been received via the e-marketplace 'sealed quote' facility; or
  - (b) it is contained in a plain envelope/packet which shall be securely sealed and shall bear the word "Tender" or "Quotation", the Unique Reference Number (URN) from the Contracts Register; and the envelope shall not bear any distinguishing matter or mark intended to indicate the identity of the sender. Such envelope shall be addressed
    - ◆ impersonally to the Legal Services Officer if it contains a "Tender", or
    - ◆ the appropriate Manager if it contains a "Quotation"; or

- (c) RFQs (Formal Quotations) may be sent electronically to a specific e-mail address, which the appropriate Manager shall obtain from the IMD Service Manager. The IMD Service Manager shall ensure that the e-mail address is secure.
- 11.2 All Officers shall comply with the procedure note 'Procedure for the Receipt of Tenders and Formal Quotations' which can be found on the Procurement internet pages..
- 11.3 All tenders or quotations upon opening shall be recorded in writing on either a tender or quotation opening record unless the Contracts Register is being completed contemporaneously. The format of the opening record shall have been previously agreed with the Monitoring Officer and Legal Services Officer.
- 11.4 Any tenders or quotations received after the specified time may in exceptional circumstances be accepted by Legal Services Officer, otherwise they shall be returned promptly to the contractor by the Legal Services Officer or his nominated officer in respect of tenders, or by the appropriate Manager or his nominated officer in respect of a formal quotation.
- 11.5 Late tenders shall be rejected once any other tender/quotation has been opened. The tender or quotation may be opened to ascertain the name of the contractor but no details of the tender or quotation shall be disclosed.

## **12. ACCEPTANCE OF TENDERS AND QUOTATIONS**

- 12.1 The appropriate Manager shall evaluate all the tenders or quotations received in accordance with the award criteria set out in the bid documentation and shall accept, subject to the provisos set out in this paragraph, the most economically advantageous tender or quotation, as evaluated against the award criteria.
- 12.2 Tenders or quotations exceeding the approved estimate may only be accepted once approval to further expenditure is obtained.
- 12.3 If the most economically advantageous quotation exceeds £75,000 but -
- ◆ is within 15% of the original estimate and budget, the appropriate Head of Service may accept the quotation without seeking further competition; or
  - ◆ is in excess of 15% of the original estimate then the Head of Service shall consult the Procurement Manager and obtain the approval of the Monitoring Officer that the quotation can be accepted otherwise a competitive tender exercise in accordance with paragraph 9.1 above shall be carried out.
- 12.4 A tender or quotation shall not be accepted -
- (a) where payment is to be made by the Council and it is not the most economically advantageous tender or quotation in accordance with the award criteria set out in the tender or quotation documentation; or
  - (b) if payment is to be received by the Council and the tender or quotation is not the highest price or value;
  - (c) unless –

- ◆ the Cabinet have considered a written report from the appropriate Head of Service/Service Manager, or
- ◆ in cases of urgency, the Monitoring Officer has consulted and obtained the approval of the relevant executive councillor. Tenders or quotations accepted in this way shall be reported by the appropriate Manager to the next meeting of the Cabinet.

## 12.5 Arithmetical Errors and Post-Tender Negotiations

- (a) Contractors can alter their tenders or quotations after the date specified for their receipt but before the acceptance of the tender or quotation, where examination of the tender or quotation documents reveals arithmetical errors or discrepancies which affect the tender or quotation figure. The contractor shall be given details of all such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing his offer.
- (b) Post-tender negotiations shall not be used to degrade the original specification unless:
  - ◆ the capital or revenue budget is exceeded; or
  - ◆ other special circumstances exist;
 in which case the Monitoring Officer and Procurement Manager shall decide which of those contractors who originally submitted a tender or quotation shall be given the opportunity to submit a further bid based upon a degraded specification. This decision shall be recorded in writing.
- (c) In evaluating tenders, the appropriate Manager may invite one or more contractors who have submitted a tender to submit a revised offer following post-tender negotiations.
- (d) All post-tender negotiations shall:
  - ◆ only be undertaken where permitted by law and where the appropriate Manager and Monitoring Officer and Legal Services Officer consider additional financial or other benefits may be obtained which over the period of the contract shall exceed the cost of the post-tender negotiation process;
  - ◆ be conducted by a team of officers approved in writing by the Monitoring Officer and Legal Services Officer;
  - ◆ be conducted in accordance with guidance issued by the Legal Services Officer; and
  - ◆ not disclose commercially sensitive information supplied by other bidders for the contract.
- (e) The appropriate Manager shall ensure that all post-tender negotiation meetings are properly minuted with all savings and benefits offered clearly costed. Following negotiations but before the letting of the contract, amendments to the original tender submitted shall be put in writing by the contractor(s) and shall be signed by him.

### **13. TERMS OF BUSINESS AND THE FORM OF CONTRACTS**

- 13.1 All orders placed by the Council shall be on the Council's Terms and Conditions (T&Cs). Managers shall not use Contractor's documentation to order, acknowledge, instruct to proceed or make any other commitment where the documentation makes any reference to the Contractor's T&Cs. Where a contractor formally insists on trading on T&Cs other than the Council's T&Cs, the Procurement Manager shall be informed, except for -
- ◆ Any contract where the estimated total value is likely to exceed £75,000, where paragraph 13.2 shall apply.
  - ◆ Any framework or contract formally adopted by the Council.
  - ◆ Purchasing Agency (e.g. ESPO, Crown Commercial Service) arranged contracts and orders.
  - ◆ Orders of a total value of less than £ 25,000 where the goods or service are purchased on a 'retail' basis on terms available to the general public.
  - ◆ Orders for software where the licence is for 'standard' product but not where customisation, development or on-site service is required for the 'standard' product.
- 13.2 Every contract that exceeds £25,000 shall use the Council's Standard Terms and Conditions. If the contract value is greater than £75,000; or where significant risk to performance or delivery is identified; or if a specialist category (eg: works, IT, professional services, concessions), then the contract shall be in writing in a form approved by the Legal Services Officer. Managers shall ensure that advice of the Legal Services Officer is sought at a stage as early as practicable (normally before the issue of an Invitation to Tender).
- 13.3 In the case of any contract likely to exceed £75,000 for the execution of works or for the supply of goods, services or materials, the Manager after consulting with the Procurement Manager and the Monitoring Officer shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or shall specify in the specification of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.
- 13.4 Managers shall produce the final version of all contracts in 2 copies. Where the total value of a contract exceeds £75,000 both copies shall be presented to the Head of Resources for signature. Once signed by the contractor, the signed contract, all original documents, including specifications, drawings, tender documents and correspondence relating to shall be forwarded by the Legal Services Officer. Where the total value of the contract is less than £75,000 the relevant Manager shall make arrangements for the retention of all the original documentation.
- 13.5 Managers shall maintain a record (in the form detailed in the Procurement Protocols & Guidance) for their area of each contract or agreement (both written and verbal agreements).
- 13.6 Managers shall include the specific T&Cs listed in the Procurement Protocols & Guidance in all contracts. Where a Manager considers a term or condition inappropriate they shall seek advice of the Legal Services Officer on the modification or deletion of the term or condition.

## **14. LETTERS OF INTENT**

14.1 Letters of intent provide a contractor with the authority to proceed prior to the award of a contract. However, letters of intent have two main disadvantages:-

- (a) if the contract is not awarded the contractor is entitled to payment regardless as to whether the work was actually needed;
- (b) the Council's negotiating position is weakened as the contractor may believe actual award of contract is a formality and therefore, the contractor may refuse to accept conditions that are seen as disadvantageous.

14.2 Managers shall ensure that:-

- (a) all letters of intent are in a form approved by the Legal Services Officer; and
- (b) all letters of intent are signed by the appropriate Budget Manger with sufficient authority for either the value of the intended contract or the estimated value of any 'extension' period defined in the letter of intent if below £75,000, otherwise by the Head of Resources.

## **15. POST-COMPETITION DEBRIEFS**

15.1 For all contracts greater than £25,000, Managers shall maintain records of selection and evaluation scoring and where requested by participating suppliers, provide a suitable post-tender debrief in writing. For contracts greater than £75,000, unsuccessful tenderers shall be advised in writing of the winning supplier, the value of the contract awarded and the strengths and weaknesses of their tender and the advice of the Procurement Manager shall be sought on the format and scope of the debrief.

## **16. PUBLISHING CONTRACT AWARDS**

16.1 Contract Award Notices shall be published within 90 days of contract award in the appropriate online system:

- ◆ Contracts Register if greater than £5,000, and.
- ◆ Contracts Finder if greater than £25,000 (including awards under mini-competition using a framework) or if advertised in Contracts Finder, and
- ◆ The Official Journal of the European Union if greater than the promulgated EU threshold.

## **17. LOCAL GOVERNMENT ACT – COMMUNITY RIGHT TO CHALLENGE**

17.1 The Local Government Act permits relevant bodies (charities, community bodies, town & parish councils and staff) to submit Expressions of Interest to provide Council services. The Procurement Manager shall maintain and publish a timetable for the submission of Expressions of Interest. All Expressions of Interest received from relevant bodies should be forwarded to the Policy, Performance and Transformation Manager (Scrutiny).

## **18. RETENTION OF DOCUMENTS**

18.1 Managers shall ensure that every contract or quotation is assigned the Unique Reference Number (URN) from the Contract Register, which is to be used in all correspondence. Any Division or reference may be included in addition to the URN shall comprise abbreviation for the Division and year. Formal amendments to a contract or order should also be given unique numbers showing the order in which the amendments were made.



- 18.2 Documentation retention periods are dictated by the Statute of Limitations and (where applicable) EU requirements. The following rules apply:-
- (a) retention for 12 years from the date of completion of the contract for contracts made under deed;
  - (b) retention for 6 years from the date of completion of the contract:-
    - Contract Documents
    - Hire/Rental Agreements
    - Successful Tenders
    - Summary of Tender Opening
    - Disposal Board papers
    - All selection and evaluation scoring and reports
    - Goods Received Notes
    - HM Customs and Excise Import documentation
    - Invitations to Tender/Quotation Requests
    - Maintenance/Software licence agreements
    - Specifications
    - Successful Quotations
    - Suppliers' Advice Notes;
  - (c) retention for 3 years after the last entry:-
    - Stock and Purchase Record Cards or Registers
  - (d) retention for 2 years after the financial year to which the document relates:-
    - Unsuccessful Quotations.
    - Unsuccessful Tenders.

## **19. FREEDOM OF INFORMATION ACT 2000 (FOIA)**

- 19.1 Managers shall ensure that the handling of requests for procurement information complies with the detailed guidance published as Procurement Protocols & Procedures and the general FOIA guidance published by the Council's Freedom of Information Officer.

## **20. CONFLICTS OF INTEREST**

- 20.1 Where a potential conflict is declared by an officer or otherwise recognised, the HoS shall ensure the relevant company and businesses areas are identified. Other business areas are exempt from the procedure.

- 20.2 The following procedure is applied according to value:

- (a) Low value (less than £75k)
  - HoS shall arrange for specifications/evaluation criteria written by the affected officer to be independently vetted;
  - HoS shall appoint 2 independent officers to evaluations were the relevant company participates; and

- HoS shall ensure independent vetting of evaluations were the relevant company becomes the preferred bidder.
- (b) High Value (greater than £75k). Where the relevant company bids or is considered likely to bid the HoS shall ensure participation by the affected officer is limited to providing specialist advice.
- 20.3 If a conflict of interest becomes apparent once a procurement is underway but before contract award the HoS shall seek the advice of the Procurement Manager and Legal Services Officer on how to proceed. If discovered after contract award, the HoS shall refer the matter to the Monitoring Officer.

## **21. CONSULTANTS**

21.1 It shall be a condition of the engagement of any consultant, agent or professional adviser who is to be responsible to the Council for the management or supervision of a contract on its behalf, that in relation to that contract he shall -

- ◆ comply with this Code as though he were an employee of the Council;
- ◆ at any time during the carrying out of the contract produce to the appropriate Manager, on request, all the records maintained by him in relation to the contract; and
- ◆ on completion of the contract transmit all records that he has produced or received that relate to the contract to the appropriate Manager.
- ◆ that the terms and conditions of their contract indemnifies the Council against any costs arising from the consultant being classified an 'employee' under Inland Revenue rules.

21.2 The Manager responsible for appointing any consultant, agent or professional adviser under paragraph 21.1 shall provide them with a copy of this Code.

## **22. PROCUREMENT TRAINING**

22.1 The Procurement Manger shall create, maintain and arrange the delivery of training for Officers undertaking procurement duties.

22.2 Managers shall ensure that all Officers routinely undertaking purchasing or procurement duties where the gross value of the procurement is £5,000 or more shall have undertaken appropriate training.

## **OFFICER EMPLOYMENT PROCEDURE RULES**

### **A. RECRUITMENT AND APPOINTMENT**

#### **1. Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, step-child, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council or of the partner of such person.
- (b) No candidates so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

#### **2. Seeking Support for Appointment**

- (a) Subject to paragraph (c), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment to the Council. The content of this paragraph will be included in any recruitment information.
- (b) Subject to paragraph (c), no Councillor will seek support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

#### **3. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint the Head of Paid Service or a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph 3 (a) to be sent to any person upon request.

#### 4. **Appointments**

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

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the Council appointed for that purpose and before an offer of appointment is made to the selected candidate and any salary packages that exceed £100,000 are proposed. That committee must include the relevant Executive Councillor.

##### **Other Chief Officers and Heads of Service**

- (b) A committee of the Council appointed for that purpose will appoint chief officers (other than the Head of Paid Service) and heads of service or their equivalent. That committee must include the relevant Executive Councillor in relation to the post to be filled and be politically balanced.

##### **Other Employees**

- (c) Appointment of employees below heads of service level is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

##### **Assistants to Political Groups**

- (d) In the event of an appointment of an assistant to a political group such appointment shall be made in accordance with the wishes of that political group.

##### **Cabinet Notification**

- (e) An offer of appointment as Head of Paid Service, Chief Officer or head of service shall not be made by the Council or panel (as appropriate) until -
  - (i) the Council or committee has supplied the Head of Paid Service with details of the proposed appointment;
  - (ii) the Head of Paid Service has supplied Members of the Cabinet with details of the proposed appointment and allowed a period for objection to the offer by the Executive Leader on behalf of the Cabinet; and
  - (iii) the Executive Leader has informed the Head of Paid Service that there is no objection to the offer, such an objection has not been received within the requisite period or the Council or panel is satisfied that any objection is not material or well-founded.

#### **B. DISCIPLINARY ACTION**

##### **1. Head of Paid Service, Monitoring Officer and Chief Finance Officer**

Disciplinary action in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be taken only by the full Council or a committee of the Council appointed for that purpose in accordance with the Council's disciplinary policy and procedure and their terms and conditions of employment. No disciplinary action, other than suspension, may be taken except after consideration of a recommendation in a report made by a designated independent panel under the Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 (investigation of alleged misconduct).

An officer may be suspended by the Council or committee for the purpose of investigating alleged misconduct but the suspension must be on full pay and of no more than two months duration.

**2. Other Chief Officers and Heads of Service**

Disciplinary action against other Chief Officers and Heads of Service (with the exception of those to which paragraph B1 applies) shall be dealt with under the Council's disciplinary policy and procedures and their terms and conditions of service. In the case of suspension, such action may be taken by the Senior Officers Committee.

**3. Other Employees**

Disciplinary action in respect of other employees may be taken in accordance with the Council's disciplinary procedure and rules adopted by the Employment Committee but such action may not involve councillors.

**C. DISMISSAL**

**1. Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The full Council must approve the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer following the recommendation of such a dismissal by the Independent Panel of the Council appointed for that purpose. The Panel must include at least one member of the Cabinet.

**2. Other Chief Officers and Heads of Service**

A committee of the Council appointed for that purpose may approve the dismissal of a Chief Officer or Head of Service (not included in section C1 above) or their equivalent. That committee must include at least one member of the Cabinet.

**3. Other Employees**

The dismissal of other employees below heads of service level is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

**4. Cabinet Notification**

A notice of the dismissal of a Chief Officer, Monitoring Officer, S151 Officer or Head of Service shall not be made by the Council or committee (as appropriate) until –

- (i) the Council or committee has supplied the Head of Paid Service with details of the proposed dismissal;
- (ii) the Head of Paid Service has supplied members of the Cabinet with details of the proposed dismissal and allowed a period for objection to the dismissal by the Executive Leader on behalf of the Cabinet; and
- (iii) the Executive Leader has informed the Head of Paid Service that there is no objection to the dismissal, such objection has not been received within the requisite period or the Council or committee (as appropriate) is satisfied that any objection is not material or well-founded.

#### **D. APPEALS**

An appeal by any employee, other than statutory officers, against any disciplinary action or dismissal by the Council, a Panel or the Head of Paid Service or his/her nominee may be heard by an Appeals Panel comprising the Managing Director, the Corporate Director or Head of Service excluding the Corporate Director or Head of Service in whose Service the employee was employed at the time of his/her dismissal and a representative of the Staff Council but not from the Division from which the employee is employed convened by the Elections and Democratic Services Manager under the Council's disciplinary procedure rules.

#### **E. SUPPLEMENTARY**

In the event of the above Rules applying to a case involving an appointment or dismissal in relation to the Head of Paid Service, the references relating to the action to be taken in these Rules by the Head of Paid Service shall be undertaken by the Corporate Director (Services) & Monitoring Officer, paying regard to the recommendations made by the Independent Panel.

#### **F. INDEPENDENT PANEL**

The Panel as described in the above Rules should be comprised of at least two independent persons and must include at least one member of the Cabinet. The Panel membership must be agreed 20 working days prior to a meeting and will be arranged by the Corporate Director (Services) or in the case if any action against that officer, by the Deputy Monitoring Officer.

Terms of Reference for the Panel

- i) To investigate proposed disciplinary action against a Chief Officer, Monitoring Officer or S151 Officer.
- ii) To offer advice, views or recommendations to Council on the proposed course of action, including any proposal for dismissal.

## **Part 5**

### **Codes and Protocols**

Draft - v4 08 March 2016

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**THE NOLAN PRINCIPLES**  
*(Ten Principles of Public Life)*

- Selflessness** - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- Honesty and integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- Objectivity** - Members should make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.
- Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- Openness** - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- Personal judgement** - Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- Respect for others** - Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.
- Duty to uphold the law** - Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
- Stewardship** - Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
- Leadership** - Members should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.

Draft - v4 08 March 2016

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# **MEMBERS' CODE OF CONDUCT**

## **INTRODUCTION**

Huntingdonshire District Council (the Authority) has adopted this Code of Conduct pursuant to Section 27 of the Localism Act 2011 to promote and maintain high standards of behaviour by its members and co-opted members whenever they are acting in their capacity as a member of the Authority or when they claim to act or give the impression of acting as a representative of the Authority.

This Code is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

### **1. Application**

This Code of Conduct applies to you whenever you are acting, claim to act or give the impression you are acting in your capacity as a Member of the Authority, including –

- 1.1 at formal Meetings of the Authority
- 1.2 when acting as a representative of the Authority
- 1.3 in taking any decision as a Cabinet Member or a Ward Councillor
- 1.4 in discharging your functions as a Ward Councillor
- 1.5 when corresponding with the authority other than in a private capacity.

### **2. Meeting**

In this Code “Meeting” means any meeting organised by or on behalf of the Authority, including –

- 2.1 any meeting of the Council, or a Committee or Sub-Committee of Council
- 2.2 any meeting of the Cabinet and any Committee of the Cabinet
- 2.3 at any briefing by Officers; and
- 2.4 at any site visit to do with the business of the Authority.

### **3. General Conduct**

You must –

- 3.1 provide leadership to the authority and communities within its area, by personal example
- 3.2 respect others and not bully or threaten or attempt to bully or threaten any person
- 3.3 respect the confidentiality of information which you receive as a Member by –

- 3.3.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
- 3.3.2 not obstructing third parties' legal rights of access to information
- 3.4 not conduct yourself in a manner which is likely to bring the Authority into disrepute.
- 3.5 use your position as a Member in the public interest and not for personal advantage.
- 3.6 comply with the Authority's reasonable rules on the use of public resources for private and political purposes.
- 3.7 exercise your own independent judgement, taking decisions for good and substantial reasons by –
  - 3.7.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups;
  - 3.7.2 paying due regard to the advice of Officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer; and
  - 3.7.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 3.8 do nothing that causes the Authority to act unlawfully
- 3.9 to comply with the Council's codes and protocols.

#### **4. Registration of Interests**

- 4.1 Within 28 days of this Code being adopted by the Council, or your election (if later), you must register with the Monitoring Officer any interests listed in Appendices A and B.
- 4.2 You must ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of any interests listed in Appendices A and B.

#### **5. Disclosable Pecuniary Interests**

- 5.1 You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State (attached at Appendix A) and either:
  - (a) it is an interest of yours, or
  - (b) it is an interest of:
    - (i) your spouse or civil partner; or
    - (ii) a person with whom you are living as husband and wife; or

- (iii) a person with whom you are living as if you were civil partners;

and you are aware that other person has the interest.

## 5.2 You must -

- 5.2.1 comply with the statutory and the Authority's requirements to disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest.
- 5.2.3 make a verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 5.2.4 Where you have a disclosable pecuniary interest, whether the interest is registered or not, you must not (unless you have obtained a dispensation from the Authority's Monitoring Officer) –
  - (i) participate, or participate further, in any discussion of the matter at the meeting; or
  - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

## 6. Non Statutory Disclosable Interests

- 6.1 In addition to the requirements of Paragraph 5, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-statutory disclosable interest in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 6.2 You have a "non-statutory disclosable interest" in an item of business of your authority where –
  - 6.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
  - 6.2.2 it relates to or is likely to affect any of the interests listed in the Table in Appendix A to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association; or
  - 6.2.3 it relates to or is likely to affect any of the interests listed in Appendix B to this Code and that interest is not a disclosable pecuniary interest.

## **7. Gifts and Hospitality**

- 7.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the authority.
- 7.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

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### DISCLOSABLE PECUNIARY INTERESTS

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).</p>
Contracts	<p>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—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
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	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
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.

For this purpose –

“the Act” means the Localism Act 2011;

“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;

“director” includes a member of the committee of management of an industrial and provident society;

“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;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“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 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



**NON STATUTORY DISCLOSABLE INTERESTS**

An interest which relates to or is likely to affect any body:-

- (a) exercising functions of a public nature; or
- (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 you are a member or in a position of control or management.

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## **CODE OF CONDUCT COMPLAINT PROCESS**

### **1. CONTEXT**

Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the authority or of a parish council (the “subject Member”) within the authority’s area has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

### **2. THE CODE OF CONDUCT**

The Council has adopted a Code of Conduct for Members, which is published on the Council’s website and available for inspection on request from the Council’s Offices (see address below).

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a parish council’s Code of Conduct, it should be available on any website operated by the parish council or request the parish clerk to allow you to inspect a copy at their offices.

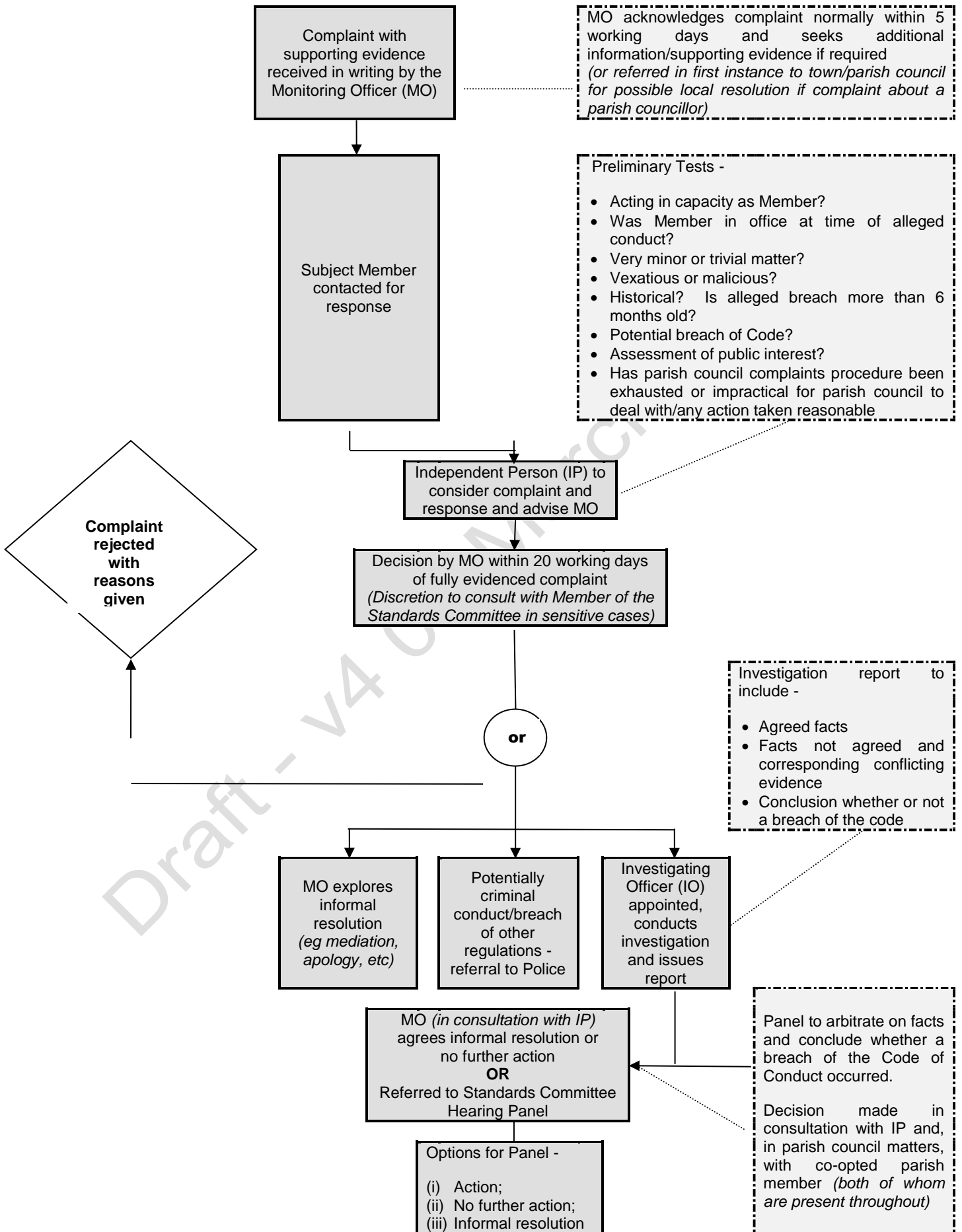
### **3. MAKING A COMPLAINT**

If you wish to make a complaint, please write to:

The Monitoring Officer  
Huntingdonshire District Council  
Pathfinder House  
St Mary’s Street  
Huntingdon  
PE29 3TN

or email: [CodeofConduct@huntingdonshire.gov.uk](mailto:CodeofConduct@huntingdonshire.gov.uk)

## COMPLAINTS PROCEDURE FLOWCHART



# MEMBERS' PLANNING CODE OF GOOD PRACTICE

## INTRODUCTION

The aim of this shortened version of the code of good practice is to ensure that in the operation of the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. The full version is available in the Members' Handbook.

The key purpose of planning is to control the development and use of land in the public interest. Your role as a member of the Planning Authority is to make all planning decisions openly, impartially, with sound judgement and for justifiable reasons.

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

### 1. Relationship to the Members' Code of Conduct

- ◆ **Do** apply the rules in the Members' Code of Conduct first and then apply the rules in the Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of dealing with all planning matters.

### 2. Development Proposals and Interests under the Members' Code

- ◆ **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with employees and other members.
- ◆ **Do** then act accordingly. **Where your interest is a disclosable pecuniary interest:-**
  - **Do** disclose the interest and withdraw immediately from the room or chamber where a meeting is being held for the duration of any discussion and/or voting in the matter.
  - **Don't** attempt to improperly influence the meeting.
  - **Don't** get involved in the processing of the application.
  - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor.
  - **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public.
  - **Do** notify the Monitoring Officer in writing of your own interest (your own application or one submitted by your spouse/partner or other direct relative) and note that:

- notification to the Monitoring Officer should be made no later than submission of the application;
- the application will always be submitted to the Development Management Panel for determination and not dealt with by officers under delegated powers; and
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers.

### 3. Fettering Discretion in the Planning Process

- ◆ **Don't** fetter your discretion and therefore your ability to participate in planning decision-making at the Council by making up your mind, or clearly appearing to have made up your mind on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of hearing the officer's presentation and evidence and arguments on both sides.
- ◆ **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for a proposal.
- ◆ **Do** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a disclosable pecuniary interest in matters which relate to the organisations mentioned below -
  - another local or public authority of which you are a member; or
  - a body to which you have been appointed or nominated by the Council as its representative
  - you must exercise your discretion in deciding whether or not to participate in each case and where:
    - you have been **significantly** involved in the preparation, submission or advocacy of a planning proposal on behalf of such a body; or
    - you are a trustee or company director of the body submitting the proposal and were appointed by the Council
  - you would be advised always to disclose a non pecuniary interest and may consider whether it would be appropriate for you to withdraw from the meeting.
- ◆ **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the town or parish council, for example, or both a district and county councillor), provided:

- the proposal/policy does not substantially affect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information then before you;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Development Management Panel or the District Council and you have had the opportunity to consider all of the relevant information. and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Development Management Panel or the District Council; and
  - you disclose the non pecuniary interest regarding your membership or role when the Development Management or District Council comes to consider the proposal.
- ◆ **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but it would be preferable for you to do so.
  - ◆ **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
  - ◆ **Do** take the opportunity to exercise your separate speaking rights as a member under the Council Procedure Rules where you have represented your views or those of local electors before the meeting and fettered your discretion, but do not have a disclosable pecuniary interest. Where you do:
    - you must give written notice to and obtain the prior permission of the Chairman that you wish to speak in this capacity before the meeting commences;
    - remove yourself from the member seating area for the duration of that item, and
    - ensure that your actions are recorded.

#### 4. **Contact with Applicants, Developers and Objectors**

- ◆ **Do** refer those who approach you for planning, procedural or technical advice to officers.
- ◆ **Do** try and avoid any meeting with applicants, developers or groups of objectors unless it has been organised by Officers.

**In addition and in respect of presentations by applicants/developers:**

- ◆ **Do** try and avoid attending a planning presentation unless an Officer is present and/or it has been organised by officers.
- ◆ **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.

## 5. Lobbying of Councillors

- ◆ **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, you cannot express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- ◆ **Do** remember that your overriding duty is to the whole community not just to the people in your ward.
- ◆ **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal.
- ◆ **Do** copy or pass on any lobbying correspondence you receive to the Head of Development or Planning Service Manager (Development Management) at the earliest opportunity.
- ◆ **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- ◆ **Do** note that, unless you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties as long as you make yourself equally available to those of differing viewpoints if requested to do so;
  - making comments to residents, interested parties, other members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind; or
  - seeking information through appropriate channels.

## 6. Lobbying by Councillors

- ◆ **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals.
- ◆ **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, but disclose a non pecuniary interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Development Management Panel or Council that you have reserved judgement and the independence to make up your own mind on each separate proposal.



- ◆ **Don't** lobby fellow members in advance of the meeting at which any planning decision is to be taken.
- ◆ **Don't** decide or discuss how to vote on any planning matter at any sort of political group meeting, or lobby any other member to do so.

## 7. Site Visits

- ◆ **Do** try to attend site visits organised by the Council where possible.
- ◆ **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- ◆ **Don't** hear representations from any other party with the exception of a ward member.
- ◆ **Don't** express opinions or views to anyone.
- ◆ **Don't** enter a site which is subject to a proposal other than as part of an official site visit or by invitation. If you feel it is essential to accept an invitation to visit a site other than through attending an official site visit do exercise caution and ensure you comply with these good practice rules.

## 8. Public Speaking at Meetings

- ◆ **Don't** allow members of the public to communicate with you during the Development Management Panel or Council's proceedings (orally or in writing) as this may give the appearance of bias.
- ◆ **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- ◆ **Don't** put pressure on officers to put forward a particular recommendation.
- ◆ **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Employees and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct.

## 10. Decision-Making

- ◆ **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- ◆ **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and, where regard is to be had to the Development Plan, make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- ◆ **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision.

- ◆ **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- ◆ **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11. Training

- ◆ Training on planning matters will be provided and updated as necessary. Specialised training is mandatory for Members who wish to serve on the Development Management Panel.

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# **MEMBERS' LICENSING CODE OF GOOD PRACTICE**

## **BACKGROUND**

The enactment of the Licensing Act 2003 and Gambling Act 2005 transferred substantial additional responsibilities for licensing to local government and established the Council as the licensing authority for the regulation of various forms of licensable activities. These responsibilities are undertaken by the Licensing Committee and its sub-committees. However the Council has other licensing responsibilities that are undertaken by the Licensing and Protection Panel and associated application sub-groups. Whichever the forum, Members are acting in a quasi-judicial capacity in carrying out the Council's licensing functions.

This Code of Good Practice is designed to apply the principles contained in the Members Code of Conduct to Members' licensing responsibilities and to support and maintain high ethical standards in local government. It applies to the actions of the Council both in its statutory capacity as the licensing authority via the Licensing Committee and its non-executive functions that are the responsibility of the Licensing and Protection Panel. For the purposes of this Code, the Council is collectively described as the licensing authority.

This Code has regard to both the Members Planning Code of Good Practice previously adopted by the Council and LACORS' guidance on the role of elected members in relation to Licensing Committee hearings under the Licensing Act 2003.

## **INTRODUCTION**

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

The key purpose of licensing is to regulate certain activities in the public interest and to promote the licensing objectives defined in the legislation. In addition, the authority must have regard to statutory guidance issued by the Secretary of State and the Gambling Commission.

Your role as a member of the licensing authority is to make decisions openly, impartially, with sound judgement and for justifiable reasons.

This Code of Good Practice also applies to Members at all times when involving themselves in the licensing process. It applies equally to licensing enforcement and licensing policy issues as it does to licensing applications. This includes taking part in decision-making meetings of the licensing authority and when involved in less formal occasions, such as meetings with officers or the public and consultative meetings.

References to officers in this Code of Good Practice relate to employees of the Council.

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

## 1. Relationship to the Members' Code of Conduct

- ◆ **Do** apply the rules in the Members' Code of Conduct first: these must always be complied with.
- ◆ **Do** then apply the rules in this Licensing Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of dealing with all licensing matters. If you do not abide by this Code of Good Practice, you may put:
  - the licensing authority at risk of proceedings as to the legality or maladministration of the related decision; and
  - yourself at risk of either being named in an Ombudsman's report made to the Corporate Governance Panel or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint to the Monitoring Officer.

## 2. Licensing Proposals and Interests under the Members' Code

Your interest in a licensing matter may take a variety of forms. As a member of the Cabinet or the relevant executive councillor, you may have either collective or individual responsibility for premises in the Council's ownership or a licensable activity which the Council is promoting for which a licence is required or has already been granted. You may be a member of another organisation or body that is applying for a licence or is carrying out a licensable activity. You may be an employee of a responsible authority defined in the legislation or you may be an interested party because you live or have business premises in the vicinity of an application site or licensed premises. You may be a member of a lobby group or campaign. You may be the applicant for a licence or the provider of a licensable activity yourself or a member of a registered club that is doing so. You may be a supplier of goods to an applicant or an existing licensee or club or you may act in some capacity on their behalf. You may also be an existing licensee or a member of a club whose business may be affected if a licence or club premises certificate is granted for a similar activity elsewhere.

Whatever your interest,

- ◆ **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with employees and other members.
- ◆ **Do** then act accordingly.
- ◆ **Where your interest is a disclosable pecuniary interest:-**
  - **Do** disclose the interest and withdraw immediately from the room or chamber where a meeting is being held for the duration of any discussion and/or voting in the matter.
  - **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the licensing authority.
  - **Don't** represent an applicant or responsible authority at a licensing sub-committee hearing or applications sub-group meeting.

- **Don't** try to represent an interested party if you have played an active role in supporting or opposing an application for a licence. Ask another member to do so in your place.  
**Don't** get involved in the processing of the application or the review of a licence or certificate that has already been issued.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a disclosable pecuniary interest in a proposal to be put before a hearing or meeting, you will have to withdraw from the room or chamber whilst the hearing or meeting considers it, whereas an ordinary member of the public would be able to observe the meeting's consideration of it from the public gallery.)
- **Do** notify the Monitoring Officer in writing of your own interest and note that:
  - notification to the Monitoring Officer should be made no later than submission of the application; and
  - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers.

### 3. Fettering Discretion in the Licensing Process

- ◆ **Don't** fetter your discretion and therefore your ability to participate in licensing decision-making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), as to how you will vote on any licensing matter prior to its formal consideration at a hearing or meeting of the licensing authority and hearing the representations and evidence on both sides. Fettering your discretion in this way and then taking part in the decision will put the licensing authority at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- ◆ **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for a proposal. (This is more than a matter of membership of both the proposing and licensing determination bodies, but because through your significant personal involvement in preparing or advocating the proposal you will be, or could be perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its licensing merits.)
- ◆ **Do** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a

disclosable pecuniary interest in matters which relate to the organisations mentioned below -

- another local or public authority of which you are a member; or
- a body to which you have been appointed or nominated by the Council as its representative.

You must exercise your discretion in deciding whether or not to participate in each case and where:

- you have been **significantly** involved in the preparation, submission or advocacy of a licensing proposal or in an activity that has been licensed on behalf of such a body; or
- you are a trustee or company director of the body submitting the proposal and were appointed by the Council.

You should always disclose the interest and consider whether it is appropriate to withdraw from the meeting.

- ◆ **Don't** sit as a member of a licensing sub-committee or applications sub-group if the applicant lives or the premises are situated in the Ward that you represent or if an application is being made to review a licence or certificate held by a resident or premises in your Ward.
- ◆ **Don't** sit as a member of a licensing sub-committee or applications sub group where you have fettered your discretion. Because of the limited size of licensing sub-committees and applications sub-groups, you should advise officers as soon as it becomes apparent to you that you have fettered your discretion and certainly before the meeting commences to enable an alternative sub committee to be convened. You do not have to withdraw from the room where the meeting is taking place, but it would be preferable for you to do so.
- ◆ **Do** take the opportunity (if you not sitting on the licensing sub-committee or applications sub group or you do not have a personal and prejudicial interest) to exercise your rights as a member to speak on behalf of an applicant or interested person even if you have represented your views or those of others before the meeting and fettered your discretion.

#### 4. Contact with Applicants, Developers and Objectors

- ◆ **Do** refer those who approach you for licensing, procedural or technical advice to officers.
- ◆ **Don't** attend any meeting with applicants or interested parties if you are a member of a sub-committee or sub-group. Pre-application discussions, if held for clarification purpose will involve officers only who will ensure that those present are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the sub-committee or application sub-group.
- ◆ **Do** otherwise meet with an applicant or interested party if you are considering representing their interests or speaking on their behalf at a hearing of a sub-committee or meeting of an applications sub-group of which you are not a member.

## 5. Lobbying of Councillors

- ◆ **Do** explain, if you are a member of a sub-committee or sub-group, to those who may be attempting to lobby you that you cannot listen to what is said as this will prejudice your impartiality and therefore your ability to participate in the decision making process.
- ◆ **Do** remember that, as a member of the Licensing Committee or Licensing and Protection Panel, you will probably be unaware whether an application will be determined by a sub-committee or sub-group or whether you will be a member of that determining body until you have been notified by officers. If you have been lobbied by an applicant or interested party, you should notify officers as soon as it comes to your attention that you have been invited to sit on a relevant sub-committee or sub-group. In such circumstances, you should not take part in that hearing or meeting and officers will make arrangements for the application to be dealt with by another sub-committee or for another member to take your place on a sub-group.
- ◆ **Don't** feel constrained, if you are not a member of a sub-committee or sub-group, to receive an approach from an applicant or interested party and, having considered the information that they have supplied, to agree to speak or make representations on their behalf at a meeting of a sub-committee or sub-group.
- ◆ **Do** remember, if you are a member of a sub-committee or sub group, that your overriding duty is to the whole community and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- ◆ **Don't** accept gifts or hospitality from any person involved in or affected by a licensing application or who may be providing a licensable activity. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum; its acceptance is declared as soon as possible and remember to register the gift or hospitality with the Monitoring Officer where its value is over £50 in accordance with the Members' Code of Conduct.
- ◆ **Do** copy or pass on any lobbying correspondence you receive if you are a member of a sub-committee or sub-group to the Elections and Democratic Services or Licensing Manager at the earliest opportunity in order that it can be placed on the appropriate licensing file and is open for inspection before a decision is made.
- ◆ **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- ◆ **Do** note that, unless you are a member of a sub-committee or sub-group or you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Licensing Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties as long as you make yourself equally available to those of differing viewpoints if requested to do so;
  - making comments to residents, interested parties, other members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind; or
  - seeking information through appropriate channels.

## 6. Lobbying by Councillors

- ◆ **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose licensing proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.
- ◆ **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals, such as a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the licensing authority that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- ◆ **Don't** excessively lobby fellow members regarding your concerns or views nor attempt to persuade them how they should vote in advance of the meeting at which any licensing decision is to be taken.
- ◆ **Don't** decide or discuss how to vote on any licensing application or policy matter at any sort of political group meeting, or lobby any other member to do so. Political group meetings should never dictate how members should vote on any licensing issue.

## 7. Site Visits

- ◆ **Do** try to attend site visits organised by the licensing authority if you are a member of the licensing sub-committee or applications sub-group. If you are unable to take part in a site visit, you will be unable to take part in the sub-committee hearing or sub-group meeting. You should therefore notify the Elections and Democratic Services Manager as soon as it comes to your attention that you are unable to attend a site visit that has been organised. Where a site visit takes place, Members will be accompanied by officers of the authority.
- ◆ **Do** ensure that you treat the site visit only as an opportunity to observe the site.
- ◆ **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- ◆ **Don't** hear representations from the applicant or an interested party at the site visit. Where you are approached by the applicant or an interested party, direct them to or inform the officer present.
- ◆ **Don't** express opinions or views to anyone.
- ◆ **Do** exercise your discretion, if you are not a member of the sub-committee or sub-group, as to whether to accept an invitation to visit a site which is the subject of an application or provides a licensable activity. Where you do accept an invitation, do exercise caution and ensure you comply with these good practice rules.

## 8. Public Speaking at Meetings

- ◆ **Don't** allow members of the public to communicate with you in isolation if you are a member of a sub committee or sub-group during the hearing or meeting proceedings (orally or in writing) as this may give the appearance of bias.



## 9. Officers

- ◆ **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Elections and Democratic Services Manager and Licensing Manager but hearing or meeting reports will contain only representations that have been submitted in the manner prescribed by the legislation. Your attention is drawn to the danger of fettering your discretion on a matter which is covered in Section 3 of this Code.)
- ◆ **Do** recognise that officers are part of a management structure and discuss a proposal, outside of any arranged meeting, only with the Elections and Democratic Services Manager or Licensing Manager or those officers who are authorised by them to deal with the proposal at a member level.
- ◆ **Do** recognise and respect that officers involved in the processing and determination of licensing matters must act in accordance with the Council's Code of Conduct for Employees and the requirements of the licensing legislation. As a result, licensing officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence and the promotion of licensing objectives, which may on occasion be at odds with the views or opinions of members.

## 10. Decision-Making

- ◆ **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- ◆ **Do** comply with the licensing legislation and make decisions in accordance with statutory licensing objectives, having regard to guidance that has been issued under the relevant legislation and the authority's statement of licensing policy.
- ◆ **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information and, if necessary, adjourn the hearing or meeting until the information has been provided and you have had an opportunity to consider it.
- ◆ **Don't** vote or take part in the hearing or meeting on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- ◆ **Do** make sure that if you are proposing, seconding or supporting a decision contrary to the licensing objectives or the statutory guidance issued by the Secretary of State or Gambling Committee or the authority's statement of licensing objectives, that you clearly identify and understand the reasons leading to this conclusion/decision. These reasons must be given prior to the vote being taken and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11. Training

- ◆ Training on licensing matters will be provided and updated as necessary. All Members should endeavour to receive training to enable them to carry out their role properly and effectively. Specialised training is mandatory for Members who wish to serve on the Licensing and Protection Panel/Licensing Committee. A review of training undertaken by Members of the Panel/Committee will be maintained by the Elections and Democratic Services Manager.

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## **MEMBER/OFFICER PROTOCOL**

### **1. Introduction**

- 1.1 Government guidance for the preparation of local authority constitutions refers to the perceived requirement for a protocol to underpin member/officer relations. This accords with the recommendations of the Nolan Committee's Report on Standards of Conduct in Local Government that every local authority should have its own written statement or protocol governing relations between members and officers.
- 1.2 The guidance suggests that protocols should be developed locally to reflect local political arrangements and approaches but gives an indication of those areas that are expected to be covered in each protocol. In adopting this protocol, the Council has had regard to broad headings proposed in the guidance.
- 1.3 The purpose of this protocol is to guide members and employees of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues that most commonly arise.

### **2. Principles Underlying Member/Employee Relations**

- 2.1 The Nolan Report suggests that 'No local authority can function properly without a good relationship between its councillors and its officers. Where the relationship breaks down, an atmosphere of suspicion or dislike can make it very difficult to devise and implement policies in any consistent way.' The general principles which govern the conduct of members (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) which are embodied in The Relevant Authorities (General Principles) Order 2001 require members to respect the impartiality and integrity of an authority's statutory officers and other employees. Those principles are equally appropriate for employees in their dealings with members.
- 2.2 This protocol should also be read in conjunction with the Members Code of Conduct and Employees Code of Conduct which are designed to ensure high standards of conduct and probity within the Council. Together they contribute to the effective and efficient transaction of Council business and ensuring that the Council is not brought into disrepute. Public confidence in the integrity and honesty of both members and employees is critical to the Council's community leadership role and compliance with the Codes and this Protocol will serve to enhance local democracy.

### **3. The Roles of Members and Employees**

- 3.1 The roles of members and employees have changed with the Local Government Act 2000 and the introduction of executive decision-making – on occasions by individual members as opposed to collectively in committee. The greater impact upon the time of individual members brought about by the new system, together with the introduction of pensionable allowances, have tended to blur the traditional distinction between the roles of members and employees. Nevertheless members and employees do have separate roles which should be readily distinguishable. These are defined more specifically in the Council's constitution.
- 3.2 Members are democratically elected and are accountable to the electorate for their actions. An important feature of each member's role is to represent the interests of his/her constituents, irrespective of how they may have voted in an election. The expectation is that members will be more aware of the views of their constituents on major policy developments before decisions are taken collectively at full Council meetings. The Executive Leader and other executive councillors are responsible for the delivery of those policies. Members who sit on overview and scrutiny have an important role in both holding the executive to account and in contributing to policy development. Members of regulatory panels make decisions on applications by the public for permissions and licences of varying types.
- 3.3 Employees are responsible for day-to-day managerial and operational decisions within the Council and should provide support to both the executive and all members in their several roles. They are employed by and accountable to the Council as a whole. The Cabinet system can create tensions and conflicts of interest for employees servicing both the executive and overview and scrutiny and the executive and the Council. Members should recognise the potential difficulties that this can present and should respect the obligation placed on employees to serve the Council as a whole.
- 3.4 In this protocol, any reference to a senior officer is a reference to the Head of Paid Service, Corporate Directors and Heads of Service as defined in the Council's constitution.
- 3.5 Certain employees, commonly referred to as "statutory officers", derive some duties and responsibilities directly from legislation. The Council's statutory officers are –
- ◆ the Head of the Paid Service is the Council's principal adviser on matters of general policy;
  - ◆ the Corporate Director (Services), who as the Council's Monitoring Officer is required to report on any proposals, decisions or omissions which in his view are likely to result in a contravention of the law or which fail to comply with legal duties, are unjust or fail to take account of an applicable code of practice; and
  - ◆ the Head of Resources, who as the Council's Chief Financial Adviser is required to report on any proposal, decision or course of action which would involve

incurring unlawful expenditure, or is unlawful or is likely to cause a loss or deficiency or if the Council was proposing to enter an item of account unlawfully.

- 3.6 There may be occasions when a Statutory Officer's responsibilities may conflict or not wholly correspond with a strategy, policy, decision or course of action proposed/taken by the Council or a member. In those circumstances members should acknowledge the primacy of the statutory responsibilities and treat the Statutory Officer with the same courtesy and respect shown to them and to other employees in all other dealings.

#### **4. Employer/Employee Issues**

- 4.1 Any dealings between members and employees should be conducted with mutual respect, trust and courtesy. Members should recognise and have due regard to their role as an employer in their dealings with employees and be conscious that inappropriate conduct or behaviour on their part could lead to a case being brought to an employment tribunal by an aggrieved employee. It is proper for a member to make written or oral representations about a matter affecting a constituent who also happens to be an employee but he/she should avoid taking a proactive part or represent or act as an advocate on behalf of the employee in any disciplinary or grievance procedures brought against the Council by the employee.
- 4.2 Members should not place inappropriate pressure on employees and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to a breakdown of mutual trust, respect and courtesy in member/employee relations.
- 4.3 In seeking advice and support, members should recognise that, whilst those employees owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Head of Paid Service and not to an individual member. For this reason, members should not give direct instructions to employees, unless they are authorised to do so by the Council's constitutional arrangements. If so authorised, instructions should, under normal circumstances, still be given to a senior officer and not to a more junior employee.
- 4.4 In particular, members and employees should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. Such principles will apply equally to the implementation of personnel and other policies, recruitment and promotion as they apply to day to day dealings with members of the public.

#### **5. Personal Relationships**

- 5.1 Guidance on personal relationships is contained in the Codes of Conduct. Provided these are observed, more informal exchanges may be appropriate between members and employees outside business meetings and formal events.
- 5.2 It is important that there should be a close working relationship between executive councillors, chairmen and leaders of political parties with the Head of Paid Service, Corporate Directors and Senior Officers. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the issue of impartiality into doubt.

## **6. Relationships between Cabinet and Employees**

- 6.1 Any decision by an executive councillor or collectively by the cabinet must be supported by a written report by the appropriate employee. An employee's obligation to the whole Council requires the advice to be tendered professionally and impartially and executive councillors should not seek to suppress or amend any aspect of such professional advice.
- 6.2 Reports to the Cabinet will normally be produced by employees but there may be occasions when an executive councillor prepares a report. In either situation, the appropriate employee shall place on record his/her professional advice to the Cabinet and ensure that advice is considered when a decision is taken.
- 6.3 As part of their duties, employees will represent (both internally and externally) the decisions of the Cabinet or an individual executive councillor. Other members should recognise that, in doing so, an employee is representing an executive decision of the Council.

## **7. Relationships between Overview and Scrutiny and Employees**

- 7.1 Overview and scrutiny plays an important role within the Council in holding the executive to account and in the formulation of policy. The Council has established a post of Scrutiny Officer exclusively to support the overview and scrutiny process but the Panels may seek the advice of the Monitoring Officer and the Chief Finance Officer where they consider there is doubt about the legality or financial probity of any decisions or prospective decisions of the executive or where these may be contrary to the Council's policy and financial framework.
- 7.2 When requiring employees to give evidence to an Overview and Scrutiny Panel, the Panel and its Chairman shall not, without the consent of a Managing Director or a senior officer, request the attendance of a junior employee. When employees are required to give evidence before an Overview and Scrutiny Panel, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Employees must respond to questions from members in an open, constructive and helpful manner. Employees must not be misleading or economical with the truth in their answers. The Chairman of an Overview and Scrutiny Panel shall ensure that executive councillors and employees are not questioned (whether through the nature, tone or language used) in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, discriminatory or otherwise unacceptable or inappropriate.
- 7.3 Where they consider it appropriate, the Chairmen of the Overview and Scrutiny Panels may ask the Head of Paid Service, Corporate Directors and Senior Officers to explain any advice given to executive councillors and explain any decision(s) that they may have taken under the Council's scheme of delegation. Any private or confidential matter must be dealt with in a private or confidential manner.

## **8. Relationships between Other Panels and Employees**

- 8.1 Decisions made by other Panels, Committees etc. must be taken collectively, normally following the receipt and consideration of a report by the appropriate employee. Such advice will be independent and professional. Because of the nature of the business conducted by the Development Management Panel, a separate Code of Conduct for Planning has been approved by the Council.

## **9. Relationships between Political Groups and Employees**

- 9.1 Political groups comprising members of an individual political party are a recognised feature of local government and it is common practice for such groups to give preliminary consideration to matters of business in advance of their consideration by a relevant Council body.
- 9.2 Employees will not attend group meetings of District Council political parties.
- 9.3 Employee support to members of political groups must not extend beyond providing information in relation to matters of Council business. When giving advice in such circumstances, employees must demonstrate political impartiality and must not suppress their professional advice in the face of political views. Employees must not champion, defend, action or spend any resources of the Council on, or be held responsible for actioning in any way whatsoever, the decisions of a political group, unless and until such decisions have become the formal decisions of the Council and any consequential provision has been made in the Council's Medium Term Plans and/or Revenue Budget.

## **10. Relationships between Individual Members and Employees**

- 10.1 The Executive Leader, Deputy Executive Leader, executive councillor, panel/committee chairman, group leader or such other members nominated by a Group Leader may request a briefing from the Head of Paid Service, Corporate Directors or senior officer on matters of policy which have already been or may be discussed by the Council or within its decision-making or advisory processes. All such requests should be addressed to the appropriate senior officer.
- 10.2 Local members have an important role to play in representing the Council in their constituencies, responding to the concerns of their constituents, in meetings with partners and when serving on outside organisations. It is essential for the efficient functioning of the Council that members should be fully informed about matters on which they may be required to make decisions or which affect their wards. Senior Officers should ensure that all relevant staff are aware of the requirement to keep local members informed and that, as far as practicable, the timing of such information allows members to contribute to those decisions. Local members shall also be kept informed about matters affecting their wards during the formative stages of policy development. Whenever a public meeting is organised by the Council to consider a local issue, all of the members representing the ward(s) affected should as a matter of course be invited to the meeting.
- 10.3 Members will be asked by their constituents, from time to time, to pursue matters on their behalf. Where such matters affect the Council, a member may request information or advice from the appropriate employee and such a request should only be refused if a member cannot demonstrate a 'need to

know' – see paragraph 11.2 post. Such action is without prejudice to the right of a member to raise an item at any meeting of the Cabinet or another panel and particularly an Overview and Scrutiny Panel.

## **11. Access to Documents and Information**

- 11.1 A member's right to access to documents and information is described in the Access to Information Procedure Rules in the Council's constitution.
- 11.2 In addition, a member has a right to inspect Council documents *so far as his/her access to the documents is reasonable necessary to enable the member properly to perform his/her duties as a member of the Council*. This principle is commonly referred to as the 'need to know' principle. It applies equally to the leaders of political party groups who, although they may be able more readily to substantiate a requirement for information, still have to demonstrate that their request is proper and reasonable and give adequate reasons for requiring the information. Access to such information will vary from member to member and will arise at different times. As such, a member's 'need to know' will be considered on a case by case basis and will not last indefinitely.
- 11.3 The right of access to information is subject to an additional safeguard and if the motive of the member in requesting to see documents is indirect, improper or ulterior, a request to inspect documents will be refused. Furthermore the law does not entitle a member to go on a 'roving or fishing expedition' or to receive every working document that employees have access to or may have had access to in the past.
- 11.4 A member is only entitled to see those documents that are relevant background papers mentioned in any report to a meeting or which are to be taken into consideration in the making of an executive decision by an executive councillor or a key decision by an employee or where information would be available under the Freedom of Information Act 2000. However, an overview and scrutiny panel may request information that is exempt or confidential if it relates to a matter that they are scrutinising.
- 11.5 Confidential information that is obtained by a member must not be disclosed to another person. Any such breach of confidence may result in a complaint to the Monitoring Officer or, if sufficiently serious, to a civil action against the member and/or the Council for damages.

## **12. Relations with the Media**

- 12.1 The Council's current structure is designed to raise the public and media profile of executive councillors and to make the members of the Cabinet both collectively and individually directly accountable for the decisions taken. Media support and presentation by employees will reflect this principle and advice to executive councillors in relation to the media will be provided if required.
- 12.2 The Chairmen of Overview and Scrutiny Panels shall ensure that all media statements relating to that function have the support of the relevant Panel. Any such statements must be consistent with the Council's intent that the overview and scrutiny function shall help to achieve a culture of continuous improvement throughout the Council.



12.3 The Council's Corporate Team Manager and other employees will assist other non-Cabinet members in their relations with the media. Any employee assisting a member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, members should not seek assistance from an employee with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

12.4 Members are also reminded of the need to comply with the Code of Recommended Practice on Local Authority Publicity issued by the Secretary of State, a copy of which is available on request and on the intranet.

### **13. Other Support**

13.1 Members are provided with a range of information and communication equipment and other support services to assist them in their policy and representative roles. Members should not use such equipment and support in connection with party political or campaigning activity or for purposes not related to Council business.

### **14. Arbitration**

14.1 Where necessary, the Head of Paid Service (or in her absence the Monitoring Officer) will arbitrate on the interpretation of this protocol.

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## **PROTOCOL FOR THE RELATIONSHIP BETWEEN THE EXECUTIVE LEADER OF THE COUNCIL AND THE HEAD OF PAID SERVICE**

### **1. THE NEED FOR A PROTOCOL**

- 1.1 The CIPFA/Solace publication on 'Good Governance in Local Government' forms the framework for the Council's Code of Governance. It recommends the development of a protocol to ensure that the Executive Leader and Head of the Council's Paid Service negotiate their respective roles early in their relationship and that a shared understanding of roles and objectives is maintained.
- 1.2 The Council acknowledges that a successful working relationship is critical to its success and the achievement of its policies and strategies both in terms of the authority itself and its relationship with partners. Both roles are defined in legislation and in the Council's constitution which should be read in conjunction with this protocol. A mutual understanding of each other's responsibilities, especially as incumbents change, is key to the development of respect, tolerance and a shared appreciation of their respective roles both individually and to set the tone for good member/employee relationships throughout the authority.

### **2. SHARED VALUES**

- 2.1 The Nolan Committee's Report on Standards of Conduct in Local Government which provides the backdrop for improved standards of conduct in local government saw a need for a written statement or protocol governing relations between members and officers. The Committee commented in their final report that 'one particular area that gave us cause for concern was the potential for improper behaviour if the normal professional relationship between member and officer became unsatisfactory by being too comfortable or too combative'. That is especially appropriate in the case of the Executive Leader and Head of Paid Service.
- 2.2 Member standards of conduct are now governed by the Members Code of Conduct based upon the statutory model code. Employee standards are set by the Employees Code of Conduct. A protocol on member/employee relations, again embodied in the constitution, sets out the importance of effective relationships but there is a danger that these will founder if a good example is not set at the highest level by the Executive Leader and Head of Paid Service.
- 2.3 Mutual respect and trust should be founded on the ten principles of public life which the Executive Leader and Head of Paid Service have undertaken to uphold. The principles, which apply equally to members and employees
- 2.3 In addition, the Council has adopted a series of policies that apply equally to the roles of the member and employee which includes a dignity at work policy and corporate equality policy.
- 2.4 The Executive Leader and the Head of Paid Service subscribe to those general principles and policies which underpin the high standards of behaviour and

relationships necessary for the Council to offer effective leadership in the community and fulfil its statutory functions.

2.5 All dealings between the Executive Leader and the Head of Paid Service should be conducted with mutual respect, trust, honesty and courtesy. Neither should place inappropriate pressure on the other and, in their dealings with each other, they should not do anything that brings the Council into disrepute, cause any embarrassment either to themselves or the Council or lead to a breakdown in member/employee relations.

2.6 The roles of each are defined in legislation but it is the sum of the parts that makes the unique partnership that is effective local government. In furtherance of that principle, the Executive Leader and Head of Paid Service undertake to recognise –

- The need for a close working relationship
- The requirement for an understanding of each other's roles and responsibilities
- The desirability of regular liaison through both formal and informal means
- The importance of effective communication
- A respect for each other's views, advice, guidance and integrity
- The need for openness and mutual understanding
- The desirability of maintaining impartiality and independence of role
- The need to avoid bias and prejudice
- The need to demonstrate effective leadership and their responsibility to set an example for others
- That any tensions that arise in their relationship need to be resolved swiftly and amicably

2.7 In addition, they acknowledge –

- The Executive Leader's position as leader of the majority political party group
- The Head of Paid Service's wider role to serve the Council and members as a whole, irrespective of political party.

2.8 To assist in that mutual recognition of each other's roles and responsibilities, these are summarised below.

### **3. THE ROLE OF THE EXECUTIVE LEADER**

- 3.1 The Council has chosen to adopt the executive leader and cabinet model of executive arrangements under the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.
- 3.2 Under these arrangements, the Executive Leader is elected by the Council from among its membership for a four year term or until his term of office comes to an end as a councillor or he is removed from office by the Council, whichever is the earliest. The Executive Leader's primary functions are to –
- Arrange for the discharge of the executive functions of the Council, including the arrangements for executive responsibilities
  - Appoint a Deputy Executive Leader of the Council
  - Determine the size and membership of the Cabinet
  - Act as chairman of meetings of the Cabinet
  - Provide the political leadership of the Council
  - Act as the leader of his (usually the majority) political party group
- 3.3 These are explained in greater detail in Article 7 and the Cabinet Procedure Rules contained in the Council's constitution.
- 3.4 The Executive Leader is responsible for ensuring that the Council promotes the economic, social and environmental well being of Huntingdonshire and its inhabitants and its development through the effective exercise of collective and individual responsibilities within the Council's decision making processes.
- 3.5 Through the effective operation of the Cabinet, the Executive Leader is accountable for -
- Proposing the Council's policy framework and setting priorities and objectives
  - Overseeing the implementation of policies and strategies to achieve priorities and objectives
  - Proposing the Council's budget to achieve its objectives
  - Managing the process for allocating resources to policy priorities
  - Ensuring the Council fulfils its statutory duties
  - Creating strategic frameworks for effective partnership working
  - Publishing a Notice of Executive Decisions of future executive decisions
  - Making policy decisions in an open and accountable way
  - Ensuring continuous improvement in service standards and monitoring performance
  - Providing political leadership of the Council
  - Communicating and advocating the Council's priorities, objectives and decisions.
- 3.6 The Head of Paid Service, as principal policy adviser, will ensure that the Executive Leader and Cabinet are provided with the appropriate advice and information to enable them to take informed decisions and they will have regard to such advice in reaching their decisions.
- 3.7 As leader of a party political group, the Executive Leader will not seek advice from the Head of Paid Service in relation to party political business and will not

expect the Head of Paid Service nor any of his staff to attend a meeting of the political group.

- 3.8 The Executive Leader has no line management responsibilities for Council employees who are responsible to the Council as a whole. Any concerns over the performance of employees either individually or collectively will be referred by the Executive Leader to the Head of Paid Service to address as he considers appropriate. Matters relating to the appointment, dismissal and disciplinary action in respect of employees are contained in the Officer Employment Procedure Rules set out in the Council's constitution. However the Executive Leader, in conjunction with other leading Members, is responsible for the annual assessment of the performance of the Head of Paid Service and in the award of performance related salary increments.

#### **4. THE ROLE OF THE HEAD OF PAID SERVICE**

- 4.1 The Head of Paid Service has overall corporate management and strategic responsibility for the Council and its delivery of services as defined in Article 12 of the Council's constitution. She is responsible for the provision of professional and impartial advice to all aspects of the decision making process and is accountable to the Council for the implementation of strategies, policies and decisions.
- 4.2 The Head of the Paid Service of the Council has certain defined responsibilities under the Local Government and Housing Act 1989 to report on –
- The co-ordination of the discharge of the Council's functions
  - The level, organisation, grades and management of employees required to discharge those functions.
- 4.3 The Head of Paid Service acts as the Council's proper officer under the Local Government Act 1972 and a variety of other legislation. The Managing Director acts as the Electoral Registration Officer for the purposes of electoral administration arrangements. She also carries the separate appointment of Returning Officer for the purpose of elections to the Council.
- 4.4 The Head of Paid Service is accountable to the Council as a whole. Her post is politically restricted inasmuch as she is not permitted to be an elected member of another authority. While this does not prevent the Head of Paid Service from being a member of a political party, it is recognised that this is inadvisable if she is to maintain a politically impartial role in advising the Council. As such, the Head of Paid Service is required to work effectively with all elected members within the Cabinet and Scrutiny system of governance and to be able to demonstrate political sensitivity and an ability to interpret political will.
- 4.5 The Head of Paid Service's performance will be monitored annually by the Executive Leader and other leading members under the Council's performance related pay scheme and her terms and conditions of employment are defined in the Officer Employment Procedure rules.
- 4.6 The Head of Paid Service has responsibility for promoting community cohesion and undertaking an overview of the Council's strategies by translating them into service plans and practical actions, gaining corporate support and ensuring compliance. The Head of Paid Service has leadership responsibility for

overseeing the Council's statutory responsibilities under the Race Relations (Amendment) Act 2000 to eliminate unlawful discrimination, promote equal opportunities and promote good relations between people from different racial groups.

4.7 The Head of Paid Service is responsible for ensuring that the following key values and behaviours approved by the Council are upheld and complied with both personally and by the Council's employees –

- Putting the customer first, both internally and externally
- Valuing, respecting and protecting dignity
- A willingness to challenge and change
- Delivering excellence and value for money

## **5. PUBLICITY**

5.1 The Council has a Communications Strategy that deals with relations with the media and its customers. It is acknowledged that one of the intentions of the current legislative requirements for governance arrangements is to raise the profile of the executive and make the Executive Leader and Cabinet accountable for their decisions and actions. It follows that media presentation and media support will reflect this. Advice to the Executive Leader in relation to the media will be provided on a confidential basis if requested. Any employee assisting the Executive Leader with media relations will act at all times in the interests of the whole Council and in a politically impartial manner.

5.2 In particular, the Executive Leader and the Head of Paid Service will have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

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## **Part 6**

# **Members' Allowances Scheme**

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## **MEMBERS' ALLOWANCES SCHEME**

The payment of allowances to Members of the District Council will be made in accordance with this Scheme.

A Member may by written notice to the Elections and Democratic Services Manager elect to forego all or part of his or her entitlement to an allowance.

It is a condition of payment of all allowances that the duty for which they are paid will have been approved before it is undertaken. The Council cannot decide afterwards that an allowance should be paid.

### **1. Operation of Scheme**

This Scheme shall come into operation on 18th May 2011. Elected Members of Huntingdonshire District Council may claim the following Allowances as specified in this scheme:

- ◆ Basic Allowance
- ◆ Special Responsibility Allowance
- ◆ Travel and Subsistence Allowance
- ◆ Care Allowance.

### **2. Basic Allowance**

Each year a Basic Allowance shall be paid to each District Councillor. From 18th May 2011 the amount of the Basic Allowance shall be calculated at the rate of £4,235 per annum.

### **3. Special Responsibility Allowances**

Each year a Special Responsibility Allowance in the amount and to the District Councillors specified in Schedule 1 to this Scheme shall be paid. No District Councillor may receive more than one Special Responsibility Allowance other than ordinary Members of the Development Management Panel who will be entitled to receive an allowance of £620.00 per annum in addition to one other Special Responsibility Allowance.

### **4. Annual Adjustment**

The Basic Allowance and Special Responsibility Allowances in paragraphs 2 and 3 above respectively shall be adjusted annually with effect from the date of the Annual Council Meeting commencing in 2012 to reflect any increase in inflation using as an automatic index mechanism the percentage change for spinal column point 33 approved by the National Joint Council for Local Government Staff Services and negotiated as the pay award for local government employees. Such mechanism will be applied until 30th April 2015 or until such time as the Independent Remuneration Panel recommends otherwise.

## 5. Travel and Subsistence Allowances

### General

Travel Allowances shall be payable where they are necessarily incurred in performing the following duties -

- ◆ attending a meeting of the Council, Cabinet or any Panel, Committee, Sub-Group, Advisory Group or other appointed body;
- ◆ attending a meeting of any body to which the Council appoints representatives, when attending as the Council's appointed representative;
- ◆ attending any other meeting or joint meeting authorised by the Council provided that Members of at least two political groups have been invited to it;
- ◆ attending a meeting of any association, organisation or body of which the Council is a member;
- ◆ undertaking any duty (including training courses, seminars, workshops or other events) which a Member is invited to attend by a Managing Director or Head of Service, provided that the duty has been approved previously by the Corporate Director (Services);
- ◆ attending any approved Conference specified in Schedule 2 to this Scheme;
- ◆ undertaking any duty which a Member is required to undertake by virtue of their election or appointment to an office in accordance with the Council's Standing Orders, Code of Financial Management, Code of Procurement, Scheme of Delegation or other approved strategy, policy or procedure; and
- ◆ undertaking any other duty or class of duty previously approved by the Council in connection with the discharge of its functions.

Claims for travelling, Subsistence and motor mileage allowances will be payable at the rate in force on the day on which the qualifying duty is undertaken.

The following points should be noted:-

- ◆ The amount to be reimbursed in respect of qualifying duties is the actual amount spent; and
- ◆ Receipts must be produced in respect of all claims for expenses incurred otherwise claims may be returned to a Member unpaid.

### Travel

#### Public Transport

The rate of travel by public transport shall not exceed the amount of the standard class or ordinary fare or the most cost effective method that meets the needs of a Member's travel requirements.

The rate may be increased by supplementary allowances not exceeding expenditure actually involved.

- (a) On Pullman Car or similar supplements, reservation of seats and deposit or portage of luggage; and

- (b) on sleeping accommodation engaged by the Member for an overnight journey, subject to a reduction by one third of any subsistence allowance payable for that night.

Should Members be required to take journeys for which the rates recommended above are not practical then approval for that journey must be sought in advance from the Elections and Democratic Services Manager and receipts provided for the reimbursement of any claims. Should prior approval not be practicable actual reasonable costs will be met on the production of receipts and approval by the Elections and Democratic Services Manager.

#### **Taxi Cab or Hired Motor Vehicle**

The rate for travel by taxi cab shall not exceed:-

- ◆ in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
- ◆ in any other case, the amount of the fare for travel by appropriate public transport.

The rate for travel by a hired motor vehicle other than a taxi-cab shall not exceed the rate which would have been applicable had the vehicle belonged to the Member and hired it, ie the private vehicle mileage.

#### **Bicycle, Motor Cycles and Motor Cars**

Where Members travel by bicycle, motorcycle, or carry passengers to approved duties they shall be paid in accordance with the mileage rates published by Her Majesty's Revenue and Customs.

<b>Vehicle Type</b>	<b>First 10,000 business miles in the tax year</b>	<b>Each business mile over 10,000 in the tax year</b>
Cars and vans	45p	25p
Motor cycles	24p	24p
Bicycles	20p	20p

Two or more Members going by motor car to the same conference or meeting shall be expected, unless there are special circumstances, to car share. This similarly applies in the case of a Member travelling with an owner. The owner of the vehicle used will make the claim.

#### **Air Travel**

Air travel will require prior authorisation by the Corporate Director (Services).

The rate for travel by air should not exceed the rate applicable to travel by appropriate alternative means of transport. Provided that where the Elections and Democratic Services Manager decides, that the saving in time is so substantial as to justify the payment of the fare for travel by air, there may be paid an amount not exceeding:

- (a) the ordinary fare or any available cheap fare for travel by regular air service, or

- (b) where no service is available or in case of urgency, the fare actually paid by the Member.

## 6. Subsistence Allowances

A Member shall be entitled to claim subsistence allowance on approved duties outside the authority area in accordance with advisory rates published by the East of England Regional Assembly as follows:-

Type of Allowance	Maximum Amount
Breakfast (more than 4 hours away before 11.00am)	£ 6.88
Lunch – (more than 4 hours away including noon – 2.00pm)	Actual amount up to £9.50 (receipt required)
Tea (more than 4 hours away including 3.00 – 6.00pm)	£ 3.76
Evening Meal (more than 4 hours away ending after 7.00pm)	£11.77

On those occasions when Members are required to attend conferences out of the District, reasonable actual expenditure incurred for subsistence shall be reimbursed subject to the production of the requisite receipts. For Members required to be absent from their usual place of residence overnight accommodation should be pre-booked by the Authority. In the event that it is not practical to make such arrangements in advance, reasonable actual costs shall be reimbursed on production of receipts. In both circumstances, the Elections and Democratic Services Manager shall determine the reasonableness of claims submitted.

## 7. Care Allowances

With effect from 18th May 2011, Councillors who pay for childcare or for the care of elderly and/or disabled dependants while they are engaged on Council duty may claim the following -

- ◆ for the purpose of childcare<sup>1</sup> the operative rates are as follows:-
  - £5.80 - £5.93 an hour for workers aged 21 and over
  - £4.83 - £4.92 an hour for workers aged 18 - 20
  - £3.57 - £3.64 an hour for workers aged 16 – 17
- ◆ for the purpose of care of elderly or disabled dependents - an allowance calculated by reference to an hourly rate paid by Cambridgeshire County Council to home care assistants.

### Subsistence Rates

- No Subsistence - As per the revised Expenses and Allowances Policy – March 2015 (copy attached)

#### Care Allowances

- NMW Rates – October 2014
  - £6.50 an hour for workers aged 21 and over
  - £5.13 an hour for workers aged 18 - 20
  - £3.79 an hour for workers aged 16 - 17
- NMW Rates – October 2015
  - £6.70 an hour for workers aged 21 and over
  - £5.30 an hour for workers aged 18 - 20
  - £3.87 an hour for workers aged 16 - 17
- NMW Rates – April 2016
  - £7.20 an hour for workers aged 25 and over
  - £6.70 an hour for workers aged 21 - 24
  - £5.30 an hour for workers aged 18 - 20
  - £3.87 an hour for workers aged 16 - 17

#### **8. Standards Committee (Parish Council Representatives and Independent Persons)**

Parish Council representatives who serve on the Standards Committee shall receive a basic allowance of £231 per annum and shall be entitled to claim travel, subsistence and care allowances in accordance with this scheme. Allowances shall also be paid for attendance at appropriate training events and seminars under the scheme. The Independent Member Persons (IPs) appointed by the Committee shall receive an annual allowance of £1,000 (Head IP) and £500 (Deputy IP) and shall also be entitled to claim travel and subsistence for attending appropriate meetings and training events.

#### **9. Pensions**

District Councillors shall not be entitled to join the Local Government Pension Scheme.

#### **10. Members IT Support**

District Councillors shall be entitled to IT and telephone support to assist them in their roles as Members of the authority. Such support shall include ICT and telephone equipment which shall be issued in accordance with the guidelines appended to this scheme.

#### **11. Claims and Payments**

Basic and Special Responsibility Allowances shall be paid in 12 instalments on the 15th of each month by BACS transfer, except in the year that a Councillor is re-elected when the payment for May will be made in June (or in a different month of the date of annual elections is changed for whatever reason).

Travelling, Subsistence and Care Allowances will be paid by BACS transfer on the 15th day of each month for claims received by the first day of that month.

Claims for Travelling, Subsistence and Care Allowances shall be made in writing on a form provided by the Elections and Democratic Services Manager within two months of the date on which the approved duty arises. The claim shall include a disclosure that no other claim will be made in respect of that duty.

## 12. Revocation

All earlier Schemes relating to the payment of Members' Allowances are revoked with effect from 17th May 2011.

### **Notes:**

- <sup>1</sup> *Childcare allowances will only be paid to childminders who are not members of the immediate family.*

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## SCHEDULE 1

### SPECIAL RESPONSIBILITY ALLOWANCES

<b>SPECIAL RESPONSIBILITY ALLOWANCES<sup>1</sup></b>	<b>Remuneration per annum £</b>
<b>The Executive</b>	
Executive Leader	14,010.00
Deputy Executive Leader	10,537.00
Other Cabinet Members	8,394.00
<b>Chairmen</b>	
Overview and Scrutiny Panels	5,604.00
Development Management Panel	6,311.00
Council	3,763.00
Licensing and Protection Panel/Committee	6,311.00
Employment Panel	2,779.00
Corporate Governance Panel	1,968.00
<b>Vice-Chairmen</b>	
Overview and Scrutiny Panels	2,242.00
Development Management Panel	2,837.00
Council	1,563.00
Licensing and Protection Panel/Committee	2,837.00
Employment Panel	927.00
Corporate Governance Panel	649.00
<b>Opposition Group</b>	
Leader – Principal Opposition	7,005.00
Deputy Leader	2,837.00
<b>Leader – Minor Opposition<sup>2</sup></b>	
Group Leader	723.00
<b>Development Management Panel</b>	
Ordinary Members <sup>3</sup>	620.00
<b>Standards Committee</b>	
Chairman <sup>4</sup>	2,779.00
Vice-Chairman <sup>4</sup>	927.00
<b>Co-Optees Allowances</b>	
Each co-opted Member and parish council representative on the Standards Committee	231.00
<b>Dependant Carer's Allowance</b>	
Each qualifying District Councillor with children or elderly/disabled dependant	Up to a maximum of 7.5 hours per week at the minimum wage level in the case of childcare and for an elderly or disabled dependant at the County Council's recommended "home carer" rate.



Notes

1. *No Member may receive more than one Special Responsibility Allowance.*
2. *Subject to the party having a minimum of five Members (or at least 10% of the Council's membership) and being registered as a political group.*
3. *Excluding the Chairman and Vice-Chairman of the Panel and any Cabinet Member appointed to the Panel.*
4. *An Independent Member (non-elected) acting as Chairman/Vice-Chairman of the Standards Committee shall receive a special responsibility allowance equivalent to that payable to a Member elected to that post.*

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## **Part 7**

# **Management Structure**

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## MANAGEMENT STRUCTURE

The senior management structure of the Council comprises a Managing Director, two Corporate Directors, Heads of Service and the Corporate Team Manager who together comprise the Senior Management Team.

### DESIGNATED POSTS

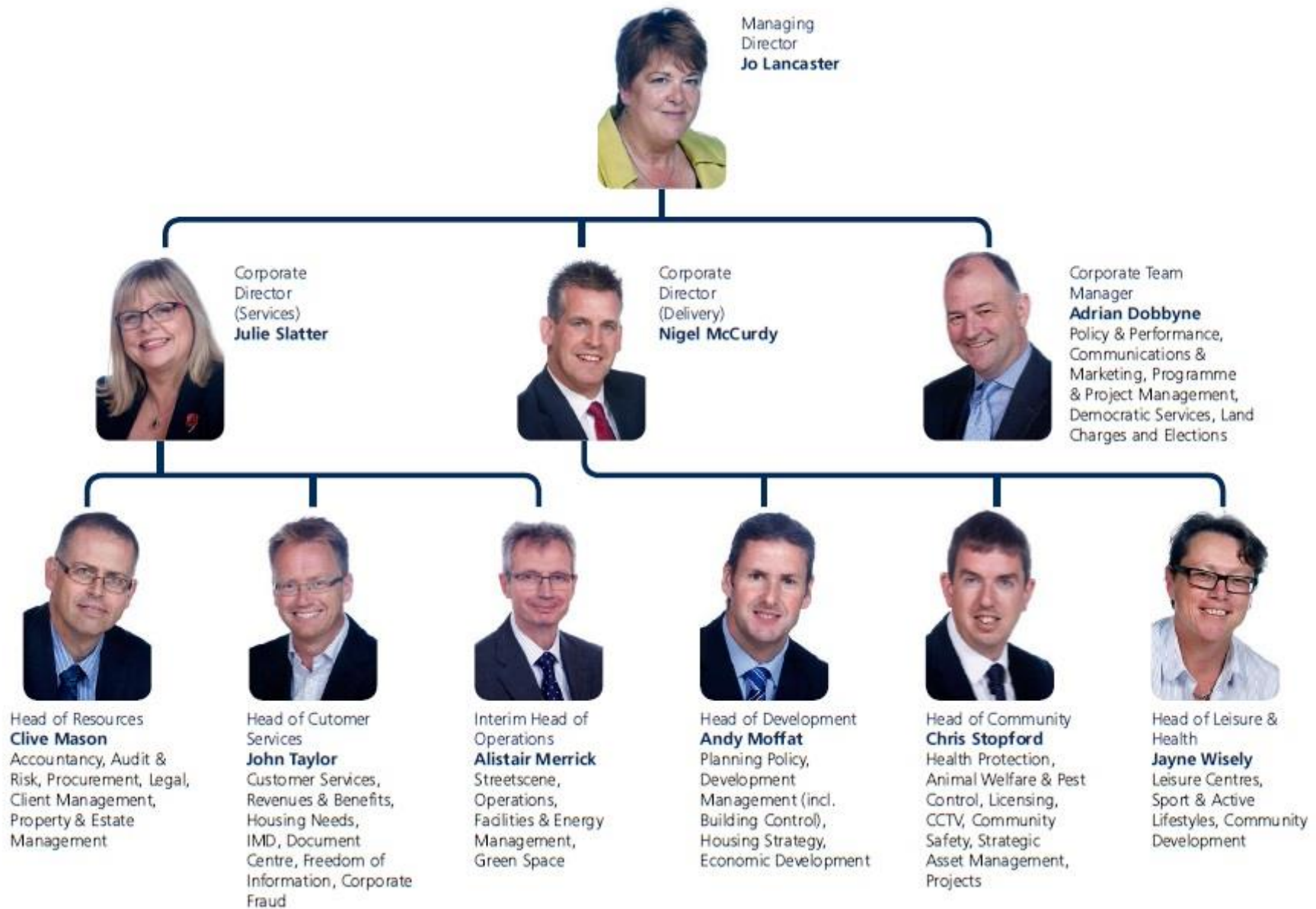
The **Managing Director** is also the Council's "Head of Paid Service" and for the purpose of Section 4 of the Local Government and Housing Act 1989 is principal adviser on matters of general policy who is required to report to Council on the manner in which the discharge of the Council's functions is co-ordinated and the number and grades of Officers required for the discharge of functions by the organisation. The Managing Director is also the appointed Returning Officer and Electoral Registration Officer

The **Head of Resources** is designated as the Council's Chief Finance Officer and is required to report to the Council (or the Cabinet in the case of an executive function) if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

The **Corporate Director (Services)** is designated as the Council's Monitoring Officer and is required to report to the Council (or to the Cabinet in the case of an executive function) on any proposals, decisions or omissions which in his view are likely to result in a contravention of the law or which fail to comply with legal duties, are unjust or fail to take account of an applicable Code of Conduct.

Other responsibilities are summarised in Article 12 of the Constitution and in the Council's Scheme of Delegation.

The organisation is no longer structured within traditional directorates and Heads of Service together with the Managing and Corporate Directors form the Senior Management Team which meets regularly to consider cross cutting and strategic issues affecting the authority. Heads of Service have equal access to support from the Managing and Corporate Directors. A Corporate Management Team continues to meet weekly. This comprises the Managing Director, Corporate Directors and the Section 151 Officer. Heads of Service attend Team meetings as appropriate. A representation of the organisational structure is presented overleaf.



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