

# Annual General Meeting of the Council

## AGENDA

**Monday, 19<sup>th</sup> April 2021 at 6:30pm**

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

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**Members of the Council are requested to attend this meeting to transact the business set out in the Agenda.**

**Membership:-**

Councillor J Abbott	Councillor H Johnson	Councillor Mrs W Schmitt
Councillor J Baugh	Councillor A Kilmartin	Councillor P Schwier
Councillor Mrs J Beavis	Councillor D Mann	Councillor Mrs G Spray
Councillor K Bowers	Councillor T McArdle	Councillor P Tattersley
Councillor G Butland	Councillor J McKee	Councillor P Thorogood
Councillor J Coleridge	Councillor A Munday	Councillor N Unsworth
Councillor G Courtauld	Councillor Mrs I Parker	Councillor R van Dulken
Councillor Mrs M Cunningham	Councillor Mrs J Pell	Councillor D Wallace
Councillor T Cunningham	Councillor I Pritchard	Councillor T Walsh
Councillor C Dervish	Councillor M Radley	Councillor L Walters
Councillor P Euesden	Councillor S Rehman	Councillor Miss M Weeks
Councillor T Everard	Councillor F Ricci	Councillor Mrs S Wilson
Councillor Mrs D Garrod	Councillor B Rose	Councillor J Wrench
Councillor A Hensman	Councillor J Sandum	Councillor B Wright
Councillor S Hicks	Councillor V Santomauro	Vacancy
Councillor P Horner	Councillor Mrs W Scattergood	Vacancy
Councillor D Hume		

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by 3pm on the day of the meeting.

A WRIGHT  
 Chief Executive

## INFORMATION FOR MEMBER – DECLARATIONS OF MEMBERS' INTERESTS

### Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

### Public Question Time – Registration and Speaking:

In response to the Coronavirus the Council has implemented procedures for Public Question Time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by midday on the working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk). In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

**Documents:** Agendas, Reports, Minutes and Public Question Time questions and statements can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

**Data Processing:** During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy. [https://www.braintree.gov.uk/info/200136/access\\_to\\_information/376/privacy\\_policy](https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy)

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

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**1 Apologies for Absence****2 Chairman's address to Council**

Councillor Angela Kilmartin, the outgoing Chairman of the Council, will address the Council.

**3****Presentation to Councillor Angela Kilmartin, the Outgoing Chairman of the Council.**

On behalf of the Council, the Chief Executive, Andy Wright, will make a presentation to the Chairman of the Council.

**4 To elect the Chairman of Braintree District Council for the Civic Year 2021/22**

Following the election the Chairman of the Council will receive the Chain of Office and sign the Declaration of Acceptance of Office. Acceptance address by the new Chairman of Braintree District Council.

**5 To elect the Vice-Chairman of Braintree District Council for the Civic Year 2021/22**

Following the election the Vice-Chairman of the Council will receive the Chain of Office and sign the Declaration of Acceptance of Office. Acceptance address by the new Vice-Chairman of Braintree District Council.

**6 To receive any announcements from the Chairman of the Council****7 Minutes of the Previous Meeting**

To approve as a correct record the minutes of the meeting of Full Council held on 15th March 2021 (copy previously circulated).

**8 Declarations of Interest**

To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.

**9 Leader of the Council**

To note that Councillor Graham Butland is the Leader of the Council as appointed at the Annual General Meeting of 21st May 2019 for a four year team of Office.

**10 Leader's Announcements - Cabinet Member Portfolios****7 - 17**

<b>11</b>	<b>Appointments to Council Committees</b>	<b>18 - 26</b>
<b>12</b>	<b>Appointment to Outside Bodies 2021-22</b>	<b>27 - 32</b>
<b>13</b>	<b>Members Allowance Scheme 2021-22</b>	<b>33 - 38</b>
<b>14</b>	<b>Appointment of the Independent Person and Reserve Independent Person</b>	<b>39 - 43</b>
<b>15</b>	<b>Constitution and Code of Governance</b>	<b>44 - 312</b>
<b>16</b>	<b>Annual Timetable of Meetings 2021/22</b>	

To confirm the following dates of Ordinary meetings of Full Council listed below.

Ordinary meetings of Full Council are held on a Monday starting at 7:15pm:

- 7th June 2021
- 26th July 2021
- 11th October 2021
- 13th December 2021
- 21st February 2022
- 28th March 2022

The Annual General Meeting of Full Council for 2022/23 will be held on 25th April 2022.

<b>Leaders Announcements: Cabinet Member Portfolios</b>		<b>Agenda No: 10</b>
<b>Portfolio</b>	<b>Overall Corporate Strategy and Direction</b>	
<b>Corporate Outcome:</b>	<b>A high performing organisation that delivers excellent and value for money services</b>	
<b>Report presented by:</b>	<b>Councillor Graham Butland, Leader of the Council</b>	
<b>Report prepared by:</b>	<b>Kim Cole, Head of Governance and Monitoring Officer</b>	
<b>Background Papers:</b>		<b>Public Report</b>
- Constitution		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>In accordance with the provisions set out in the Local Government Act 2000, the Leader of the Council is required to appoint the Cabinet.</p> <p>This report sets out the Leader of the Council's appointment of Cabinet Members and their areas of responsibility.</p> <p>The appointments are made by the Leader to be effective from the Annual General Meeting commencing on 20 April 2021.</p>		
<b>Recommended Decision:</b>		
<p>That Council notes:</p> <ol style="list-style-type: none"> <li>1. The appointment of the Cabinet Members and their assigned Portfolios as set out in Appendix A;</li> <li>2. The authorisation to exercise Executive Functions as set out in Appendix B; and</li> <li>3. The appointment of the Cabinet Support Members identified in paragraph 2.9, subject to the approval of the Council's Constitution under Agenda item 15.</li> </ol>		
<b>Purpose of Decision:</b>		
<p>The appointments by the Leader, together with the allocations of the portfolios is a statutory requirement, vested in the Leader, and is essential in ensuring that the Council are able to discharge its Executive Functions.</p>		

**Any Corporate implications in relation to the following should be explained in detail.**

<b>Financial:</b>	No matters arising out of this report. Cabinet Members will receive an allowance in accordance with the Council's Member Scheme of Allowance as set out in the Council's Constitution, and the proposals set out within this report are provided within the Member Allowance Budget set by Council on 22 <sup>nd</sup> February 2021.
<b>Legal:</b>	This Council operates under Executive arrangements, and as a result the Leader of the Council is required to appoint the Cabinet, who will be responsible for exercising the Council's Executive Functions.
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	It has not been necessary to conduct an Equality Impact Assessment. Cabinet Members are drawn from the elected Members of Council.
<b>Customer Impact:</b>	No matters arising out of this report
<b>Environment and Climate Change:</b>	No matters arising out of this report
<b>Consultation/Community Engagement:</b>	No matters arising out of this report
<b>Risks:</b>	No matters arising out of this report
<b>Officer Contact:</b>	Kim Cole
<b>Designation:</b>	Head of Governance and Monitoring Officer
<b>Ext. No:</b>	
<b>E-mail:</b>	kim.cole@braintree.gov.uk



## 1. Introduction

- 1.1 In accordance with the provisions set out in the Local Government Act 2000, the Leader of the Council, operating under Executive arrangements, is required to appoint Cabinet. In doing so the Leader shall determine the size and composition of the Cabinet, provided that the membership is no less than two and no more than ten Members, and shall determine how the Executive Functions should be discharged.
- 1.2 The Local Government Act 2000, divides the Council's functions into two distinct areas, namely:
- (a) Executive Functions, where decisions are made by the Leader, Cabinet Members or delegated to Officers, and
  - (b) Non-executive functions (Council Functions) where decisions are taken by the Council itself, by Committees or by Officers.

## 2. Leader Appointments and Portfolios

- 2.1 The Leader has reviewed the current size and composition of Cabinet, and has determined that the Cabinet Members appointed and the portfolios they will hold will be changed. The appointments and delegations have been designed to ensure that the Council can operate efficiently and effectively and so that decisions can be taken at the right level. These changes are designed to help the Council respond to the challenges it is facing while continuing to provide effective services and value for money for Braintree's residents and businesses.
- 2.2 The Leader makes the following appointments to Cabinet and allocates the portfolios areas as follows:

Councillor	Portfolio
Councillor Graham Butland	Overall Strategy
<b>Innovative Environment</b>	
Councillor John Mckee	Finance and Corporate Transformation
Councillor Mrs Wendy Schmitt	The Environment
<b>Connecting People, Places and Prosperity</b>	
Councillor Tom Cunningham (Deputy Leader)	Economic Growth
Councillor Kevin Bowers	Housing, Assets and Skills
Councillor Mrs Gabrielle Spray	Planning and Infrastructure
<b>Supporting Our Communities</b>	
Councillor Peter Tattersley	Health and Wellbeing
Councillor Frankie Ricci	Communities

- 2.3 Each of the above portfolios holds a number of specific areas. The areas allocated to each portfolio are set out in Appendix A.

- 2.4 In allocating these portfolios, the Leader has determined the Scheme of Delegation to the Cabinet Members. This Scheme of Delegation will form part of the Constitution, and will form the new Chapter 4. The new Constitution is to be approved by Council under Agenda Item 15.
- 2.5 The Cabinet Member Scheme of Delegation is set out in Appendix B.
- 2.6 Where a delegation exists to a previous portfolio designation, that delegation shall apply to the new portfolio which most closely aligns to the relevant area of responsibility. In the event that this is unclear, the Leader shall determine who should hold the delegated responsibility for that area.
- 2.7 In forming Cabinet, the Leader has identified that there are instances where there is need for the Cabinet Member to have additional support as they manage their Portfolios. However, this support would not fulfil a traditional Deputy Cabinet Member Role as set out in the Council's Constitution. Accordingly the Constitution, to be determined under Agenda Item 15, introduces the additional role of a Cabinet Support Member. The remit of that role is set out below.

### **Cabinet Support Members**

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

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

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

They shall not have decision making powers (executive or otherwise).

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

- 2.8 In recognition of the role, the new Cabinet Support Member will be entitled to a Special Responsibility Allowance (SRA) which is representative of a multiplier of 0.75 of the Basic Allowance, which would represent an SRA of £3,798.00 per annum. The Member Allowance Scheme forms part of the Council's Constitution, and this will be considered further under Agenda Item 15 and is subject to Council's approval.
- 2.9 Accordingly subject to Council's approval of the Constitution under Agenda Item x15, the Leader has appointed the following Members as a Cabinet Support Members, who will provide the support role to the Cabinet Member in accordance with the portfolio areas set out below.

**Cabinet Support Member****Corporate Priority**

Councillor Ian Pritchard  
Councillor Justin Wrench  
Councillor Mrs Iona Parker

Innovative Environment  
Connecting People, Places and Prosperity  
Supporting our Communities

**3. Conclusion**

- 3.1 For the reasons set out in this report, the Council are invited to approve the recommendations as set out above.

## **APPENDIX A – Cabinet Member Appointments and Portfolios**

### **(a) Overall Strategy**

- Councillor Graham Butland, Leader of the Council
- Overall Vision and Strategic Direction
- Corporate Strategy
- Strategic Partnerships
- COVID 19 response
- Strategic Economic Growth
- Promotion of the District
- Communications
- External Relations
- Performance Management
- Investment and Development Programme
- Electoral Administration

### **Innovative Environment**

### **(b) Cabinet Member for Finance and Corporate Transformation**

- Councillor John McKee
- Medium-Term Financial Strategy
- Financial and Treasury Management
- Commercialisation and Income Generation
- Efficiency and Improvement Programme
- Customer Services
- Procurement
- Corporate Governance
- Member Support and Development
- HR and Organisational Development
- Health and Safety
- Risk Management
- ICT
- Digital Strategy

### **(c) Cabinet Member for Environment**

- Councillor Mrs Wendy Schmitt
- Waste Minimisation and Recycling
- Street Cleansing and Parks
- Landscapes and Countryside
- Parking & Highways
- Licencing
- Building Control
- Environmental Health
- Climate Change and Sustainability
- Emergency Planning

## **Connecting People, Places and Prosperity**

### **(d) Cabinet Member for Economic Growth and Deputy Leader**

- Councillor Tom Cunningham
- Economic Development Strategies & COVID Recovery
- North Essex Economic Board & Regional Partnerships
- Business Engagement and Support
- Employment Site Strategy
- Inward Investment
- Digital Connectivity
- Town Centre Renewal Strategies and Improvements
- Major Projects (Employment)

### **(e) Cabinet Member for Housing, Assets and Skills**

- Councillor Kevin Bowers
- Housing Development
- Housing Strategy
- Homelessness
- Affordable Housing Delivery
- Major Projects (Prosperous District)
- Asset Management
- Enterprise Centre Portfolio and Strategy
- Skills & Education Improvement

### **(f) Cabinet Member for Planning and Infrastructure**

- Councillor Mrs Gabrielle Spray
- Local Plan
- Development Management
- Planning Enforcement
- Landscape Services
- Infrastructure

## **Supporting Our Communities**

### **(g) Cabinet Member for Health and Wellbeing**

- Councillor Peter Tattersley
- Health Improvement
- Health Partnerships
- Livewell Programme
- Emotional Health and Well-being
- Leisure Centres
- Sports Development
- Safeguarding
- Older People
- Children and Young People

**(h) Cabinet Member for Communities**

- Councillor Frankie Ricci
- Community Safety
- Welfare Reform
- Local Community Engagement
- Voluntary Sector
- Equality & Diversity
- Community Facilities and Support
- Community Transport
- Rural Communities
- External Funding
- Armed Forces Covenant
- Cycling Strategy
- Heritage Services
- Tourism

## **APPENDIX B – Cabinet Member Scheme of Delegation**

### **1. Scheme of Delegations to Cabinet Members**

#### **1.1 General principles**

This Scheme delegates powers and duties in relation to Executive Functions and Local Choice Functions which are the responsibility of the Cabinet to Cabinet Members.

This Scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the 2000 Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.

#### **1.2 Functions Reserved to Cabinet**

Any Executive decision which will result in a recommendation or proposal to the Council shall only be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member or Officer.

Any decision falling within any of the following categories shall be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member, a Cabinet Committee or an Officer or under joint arrangements unless it is delegated to that Cabinet Member, Committee, and an Officer or under joint arrangements after consideration by the Cabinet:

- (a) A decision on a matter which is cross cutting and affects the area of responsibility of more than one Cabinet Member; or
- (b) A decision that the Leader has decided should be referred to the Council; or
- (c) A Key Decision as set out in Article 7.

#### **1.3 Delegations of Executive Functions**

The delegations to Officers in respect of the Executive Functions of the Cabinet are set out in the Council's Officer Scheme of Delegation, contained within Chapter 4 of the Constitution.

#### **1.4 General limitations of a Cabinet Member Decision**

Cabinet Members are not permitted to take a Key Decision.

Before taking a decision, a Cabinet Member shall receive advice from the appropriate officer and must take advice from the Monitoring Officer and Section 151 Officer.

Any exercise of delegated powers shall be subject to:

- (a) the Budget and Policy Framework approved by the Council;
- (b) the Policies approved by the Cabinet from time to time
- (c) any statutory restrictions;
- (d) the Standing Orders of the Council;
- (e) Financial Procedure Rules; and
- (f) Procurement Procedure Rules;

Delegation of Executive Functions to a Cabinet Member does not include the functions reserved to Full Council contained in Article 5, or the functions reserved to Cabinet contained in Article 6.

## **1.5 Further provisions**

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

This scheme operates from 19 April 2021.

In each case the delegated authority permits Cabinet Members to approve small amendments to Policies falling within their portfolio provided that such change:

- (a) Is to bring clarity or remove ambiguity; and
- (b) Does not change the overall meaning of the policy.

All significant changes and those brought into effect as the result of changes to the relevant legislation must be referred to Cabinet for approval.

Cabinet Members shall consult their Cabinet colleagues on all strategically important issues.

All Executive Functions are and remain vested in the Leader.

In so far as required for the promotion of their Portfolio, the Cabinet Member may:

- (a) Authorise Officers to conclude any matter, process, or enter into any contract the undertaking of which, in principle, has previously been considered and authorised by Cabinet;
- (b) Take Non-Key Decisions;
- (c) Approve the extension, or variation of contracts within their Portfolio area providing that this is within the Council's Financial Procedure Rules, Contract and Procurement procedure Rules and the Budget and Policy Framework;
- (d) Authorise a response by, or on behalf of the Council to consultations provided that if the consultation raises issues of Council wide interest or significance it shall be referred to the Cabinet, or the appropriate Committee to agree a response, and that if the consultation is concerned only with and calls for a response on matters of a very technical



professional nature, then Officers may deal with it without reference to a Cabinet Member;

- (e) Agree appropriate fees and charges which are within the control of the Cabinet in consultation with the Corporate Director (Finance), providing that they are consistent with the Budget; and
- (f) Make, update or change plans and strategies provided that those changes do not conflict with an approved policy, do not raise new issues of policy, are within the approved budgets and do not exceed any of the financial limits set out in the Financial Procedure Rules that are within their portfolio area, and do not relate to a matter which is reserved to the Council.

Appointments to Council Committees		Agenda No: 11
Portfolio	Overall Corporate Strategy and Direction	
Corporate Outcome:	A high performing organisation that delivers excellent and value for money services	
Report presented by:	Councillor Graham Butland, Leader of the Council	
Report prepared by:	Kim Cole, Head of Governance and Monitoring Officer	
Background Papers:		Public Report
Appendix A – Committee Appointments		Key Decision: No
Executive Summary:		
The Council has a number of Committees and Sub-Committees whose membership is determined to by the Council. This report outlines those appointments and the requirements set out in the Local Government and Housing Act 1989 to allocate seats to Political Groups on a politically proportionate basis for the 2021/22 civic year.		
Recommended Decision:		
That the Council:		
1. Notes the political balance requirements; and		
2. Approves the proposed changes to the Council’s Committees as set out in Appendix A		
Purpose of Decision:		
To comply with legislation and to enable the Council to discharge its functions through Committees and Sub-Committees.		

Any Corporate implications in relation to the following should be explained in detail.	
<b>Financial:</b>	No matters arising out of this report
<b>Legal:</b>	Article 4 of the Constitution states that it is a function of Council to make appointments to Committees, unless the appointment is a Cabinet function or has been delegated by Council to a Committee or Officer.
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	The determination of the political proportionality on Committees is determined in accordance with the statutory provisions. Formally, it is a matter for Political Groups to determine the membership of individual Committees within the proportionate allocation to the Groups.
<b>Customer Impact:</b>	No matters arising out of this report
<b>Environment and Climate Change:</b>	No matters arising out of this report
<b>Consultation/Community Engagement:</b>	No matters arising out of this report
<b>Risks:</b>	The political balance rules can only be departed from if there is no dissenting vote at Council. Failure to comply would result in a breach of statutory duty which could be the subject of judicial review proceedings.
<b>Officer Contact:</b>	Kim Cole
<b>Designation:</b>	Head of Governance and Monitoring Officer
<b>Ext. No:</b>	
<b>E-mail:</b>	kim.Cole@braintree.gov.uk

## **1. Introduction**

1.1. This report outlines the requirements set out in the Local Government and Housing Act 1989 to allocate seats on Council Committees and Sub-Committees to Political Groups on a politically proportionate basis. The Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 apply with some exceptions to any Committees established under the Constitution.

1.1 The membership of the Council is 49 seats and for the purpose of the allocation of seats, this is broken down as follows:-

- 32 - Conservative Group
- 9 - Green and Independent Group
- 4 - Halstead Residents Association
- 2 - Labour Group
- 2 – Vacancies

## **2. Political balance requirements**

2.1 The allocation of seats on ordinary Committees must be in the same proportion as the number of Members of the Group bears to the membership of the Council as a whole.

2.2 The Council has a duty when allocating or reviewing the allocation of seats on Committees to give effect so far as is reasonably practicable to the following four principles:-

- (a) all the seats are not allocated to the same Political Group;
- (b) the majority of the seats go to the Political Group in the majority on the full Council;
- (c) subject to the above two principles, the total number of seats on the ordinary Committees of the Authority are allocated to each Political Group in the same proportion as the Group's representation on the full Council; and
- (d) subject to the above three principles, the number of seats on each Committee are allocated to each Political Group in the same proportion as the Group's representation on the Council.

2.3 A review of the political proportions has been carried out to reflect the changes caused by the resignation of Councillor Bebb, who was a member of the Conservative Group. The changes in political balance are set out below:

- Conservative Group – over percentage variance of -0.7%
- Green and Independent Group - over percentage variance of +0.4%
- Halstead Residents Association - over percentage variance of -0.2%
- Labour Group - over percentage variance of -0.1%

3.2 As there is no significant changes to the existing arrangements of Committees, it is proposed that there are no changes to the Political Proportionality of the Committees. This will be reviewed following the outcome of the District election on 6<sup>th</sup> May 2021.

### 3. Council Committee Appointments

#### Planning Committee

- 3.1 The Planning Committee membership will be subject to the following changes:

Stepping Down	Proposed Member
Councillor Tom Cunningham	Councillor Peter Schwier

- 3.2 The Planning Committee are required to attend a large number of meetings with an increasing complexity of work. The Planning Committee has continued with its significant workload since 2019, and the forecast is that the level of work considered at this Committee will continue to increase. As a result the Council, subject to the approval of the Constitution at Agenda Item 15, are seeking to agree to the use of substitutes for the Planning Committee. This would ensure that the Committee are fully attended on each occasion and that the applications before it undergo the consideration of a full committee wherever possible. Subject to the approval of Council under Agenda Item 15, the Substitutes will be entitled to receive a Special Remuneration Allowance of £50.00 per meeting attended in their capacity as a Substitute.

- 3.3 The nominated substitutes for each political group are set out below:

Conservative Group	Councillor Mrs Sue Wilson Councillor Tom Cunningham Councillor Andrew Hensman
Green and Independent Group	Councillor Paul Thorogood
HRA Group	Councillor David Hume
Labour Group	Vacancy

#### Licensing Committee

- 3.4 The Licensing Committee membership will be subject to the following changes:

Stepping Down	Proposed Member
Councillor Mrs Sue Wilson	Councillor Mrs Mary Cunningham

- 3.5 The Licensing Committee forms part of the Councils regulatory Committees, and covers arrange of functions and responsibilities. These meetings, together with the Driver Panels and Licensing Hearings whose membership is drawn from the Licensing Committee, can be called at short notice. As a result the Council, subject to the approval of the Constitution at Agenda Item 15, are seeking to approve to the use of substitutes for the Licensing Committee.

- 3.6 The nominated substitutes for each Political group are set out below:

Conservative Group	Vacancy Councillor James Coleridge Councillor Iona Parker
Green and Independent Group	Councillor Jenny Sandum
HRA Group	Councillor Andy Munday
Labour Group	Vacancy

### **Braintree District Local Highways Panel**

- 3.7 The Braintree District Local Highways Panel currently show Councillor Graham Butland as a Member, however, this appointment is in Councillor Butland's capacity as County Councillor and not by way of a nominated appointment for the Council. Further Councillor Patrick Horner is stepping down, Councillor Paul Euesden is the proposed Member as set out below:

<b>Stepping Down</b>	<b>Proposed Member</b>
Councillor Patrick Horner	Councillor Paul Euesden

### **Partnership Development Group (Partnership Development Scrutiny Committee)**

- 3.8 The Partnership Development Group membership will be subject to the following changes:

<b>Stepping Down</b>	<b>Proposed Member</b>
Councillor Ian Pritchard (Vice Chairman)	Councillor Mrs Lyn Walters

- 3.9 Councillor Pritchard held the vice-Chairman role for the Partnership Development group. As a result of stepping down, it is proposed that the Vice-Chairman appointment is allocated to Councillor George Courtauld. As a result of this appointment, Councillor Courtauld would be entitled to receive a Special Responsibility Allowance in the sum of £2,532.00.

### **Community Development Group (Community Development Scrutiny Committee)**

- 3.10 The Community Development Group membership will be subject to the following changes:

<b>Stepping Down</b>	<b>Proposed Member</b>
Councillor Mrs Iona Parker	Vacancy (Cons)

- 3.11 No other sizes of Committees, the appointments of Members or the appointments of Chairman or Vice Chairman are impacted as a result of this report. For the avoidance of doubt Appendix A sets out all the Council's Committees and their membership, and incorporates the changes as set out in this report.
- 3.12 The names of the four Scrutiny Committees are changing to formally identify them as the Council's Scrutiny Committees, and Councils approval for these are set out as part of the Council's Approval for the Constitution under Agenda Item 15. According, the Table in Appendix A contains the new names under the current titles in order to ensure clarity.

#### **4. Conclusion**

- 4.1 All appointments are for the 2021/22 Civic Year, and any midyear vacancies are able to be filled by the relevant Group at any time upon written notice to the Chief Executive.
- 4.2 All Members who sit on the Planning Committee and the Licensing Committee (including Hearing Panels) are appointed on the basis that all Members shall participate in the appropriate training, if they haven't already done so, before undertaking their duties and continue to participate in on-going training. This obligation extends to all appointed substitutes to these two Committees.
- 4.3 On the basis of the information set out in this report, Council is recommended to approve the changes and approve the membership to the Councils Committee as set out in Appendix A.

## Appendix A – Council Committees

Committee	Size	Membership Appointments	Appointed Substitutes
<b>Planning Committee</b>	13	Cllr J Abbott Cllr K Bowers Cllr P Horner Cllr H Johnson Cllr D Mann Cllr A Munday Cllr I Parker (Vice-Chairman) Cllr F Ricci Cllr W Scattergood (Chairman) Cllr P Schwier Cllr G Spray Cllr N Unsworth Cllr J Wrench	Cllr T Cunningham Cllr A Hensman Cllr S Wilson Cllr P Thorogood Cllr D Hume Vacancy (Lab)
<b>Licensing Committee (including Driver's Panel and Licensing Hearings)</b>	14	Cllr J Baugh (Chairman) Cllr J Beavis Cllr M Cunningham Cllr P Euesden Cllr A Hensman Cllr S Hicks Cllr H Johnson Cllr J Pell Cllr S Rehman Cllr B Rose (Vice-Chairman) Cllr P Schwier Cllr R van Dulken Cllr L Walters Cllr B Wright	Vacancy (Cons) Cllr J Coleridge Cllr I Parker Cllr J Sandum Cllr A Munday Vacancy (Lab)
<b>Performance Management Scrutiny Committee</b> <i>(formally Performance Management Board)</i>	9	Cllr J Coleridge Cllr G Courtauld Cllr C Dervish Cllr T Everard Cllr M Radley (Chairman) Cllr S Rehman Cllr B Rose Cllr P Schwier (Vice-Chairman) Cllr N Unsworth	N/A



<b>Committee</b>	<b>Size</b>	<b>Membership Appointments</b>	<b>Appointed Substitutes</b>
<b>Partnership Development Scrutiny Committee</b> <i>(formally Partnership Development Group)</i>	9	Cllr J Baugh Cllr G Courtauld (Vice-Chairman) Cllr M Cunningham (Chairman) Cllr A Hensman Cllr T McArdle Cllr J Pell Cllr L Walters Cllr J Sandum Cllr P Thorogood	N/A
<b>Governance and Audit Scrutiny Committee</b> <i>(formally Corporate Governance Group)</i>	9	Cllr P Euesden Cllr D Hume Cllr H Johnson (Vice-Chairman) Cllr D Mann Cllr V Santomauro Cllr R van Dulken (Chairman) Cllr D Wallace Cllr T Walsh Cllr L Walters	N/A
<b>Community Development Scrutiny Committee</b> <i>(formally Community Development Group)</i>	9	Cllr C Dervish Cllr D Garrod (Chairman) Cllr A Hensman (Vice-Chairman) Cllr J Pell Cllr L Walters Cllr M Weeks Cllr S Wilson Cllr B Wright Vacancy (Cons)	N/A
<b>Standards Sub-Committee</b>	6	Cllr M Cunningham Cllr I Parker Cllr J Pell Cllr V Santomauro Cllr R van Dulken Cllr T Walsh	N/A
<b>Appeals Committee</b>	6	Cllr D Garrod Cllr S Hicks Cllr D Mann Cllr S Rehman Cllr B Rose Cllr S Wilson	N/A

<b>Committee</b>	<b>Size</b>	<b>Membership Appointments</b>	<b>Appointed Substitutes</b>
<b>Appointments Committee</b>	6	Cllr G Butland Cllr T Cunningham Cllr J McKee Cllr J Pell Cllr G Spray Cllr N Unsworth	N/A
<b>Braintree District Local Highways Panel</b>	4	Cllr P Euesden Cllr M Cunningham Cllr R van Dulken Cllr S Wilson	N/A

Appointment to Outside Bodies 2021/22		Agenda No: 12
Portfolio	Overall Corporate Strategy and Direction	
Corporate Outcome:	A high performing organisation that delivers excellent and value for money services	
Report presented by:	Councillor Graham Butland, Leader of the Council	
Report prepared by:	Kim Cole, Head of Governance and Monitoring Officer	
Background Papers:	Public Report	
Appendix A – Appointments to Outside Bodies	Key Decision: No	
Executive Summary:		
<p>Full Council may make appointments to Committees and nominate representative to Outside Bodies unless the appointment is a Cabinet Function or has been delegated by Council to a Committee or an Officer. On 21<sup>st</sup> May 2019, Council approved its appointments for the Civic Year 2019/20. However, these appointments were extended for a further year following the Coronavirus pandemic.</p> <p>In accordance with Article 4 of the Council’s Constitution, Full Council is invited to make appointments to the Outside Bodies as set out in Appendix A.</p> <p>The appointments are for the 2021/22 Civic Year only.</p>		
Recommended Decision:		
Council agrees:		
<div><div>1.</div><div>To appoint Members in accordance with the nominations as set out in Appendix A.</div></div> <div><div>2.</div><div>To authorise the Monitoring officer to make or amend an appointment to any of the non-Executive bodies listed in Appendix A above in accordance with the nomination by a Political Group, where the position has previously been allocated by the Council to that Group.</div></div>		

<b>Purpose of Decision:</b>	
Full Council discharges its functions in accordance with Article 4 of the Constitution.	
<b>Any Corporate implications in relation to the following should be explained in detail.</b>	
<b>Financial:</b>	<p>Members appointed to serve on Outside Bodies are entitled to claim their expenses in accordance with the Member Allowance Scheme in attending meetings of the outside bodies as the Council representative.</p> <p>Members Allowance is met from the existing Member Allowance budget.</p>
<b>Legal:</b>	No matters arising out of this report
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	No direct assessment has been made in relation to these appointment. Appointments reflect the membership of the Council and the needs of the relevant outside body.
<b>Customer Impact:</b>	No matters arising out of this report
<b>Environment and Climate Change:</b>	No matters arising out of this report
<b>Consultation/Community Engagement:</b>	No matters arising out of this report
<b>Risks:</b>	The Council's reputation and its ability to contribute to local and national issues may be damaged if it withdraws support from outside bodies. It is therefore important to ensure that the Council has in place appropriate and adequate representation.
<b>Officer Contact:</b>	Kim Cole,
<b>Designation:</b>	Head of Governance and Monitoring Officer
<b>Ext. No:</b>	2629
<b>E-mail:</b>	kim.cole@braintree.gov.uk

## **1. Introduction**

- 1.1 As part of its Annual meeting, the Council may make appointments to Committees and nominate representative to a range of Outside Bodies, unless the appointment is a Cabinet Function or has been delegated by Council to a committee or an officer.
- 1.2 On 21<sup>st</sup> May 2019, Council approved its appointments for the Civic Year 2019/20. However, due to the Coronavirus pandemic the Council did not hold an AGM in 2020, and therefore these appointments were extended for a further Civic Year.

## **2. Appointments**

- 2.1 In accordance with Article 4 of the Council's Constitution, Full Council is invited to make appointments to the Outside Bodies as set out in Appendix A.
- 2.2 Outside bodies are external organisations and partnerships which have requested that the Council appoint an Elected Member to them or that have been established to support the Council in the management of its services.
- 2.3 Participation in Outside Bodies, contributes to the Council's strategic functions, priorities or community leadership roles; supports partnership and joint working; and enables Members to gain and share knowledge and expertise.
- 2.4 The criteria for a Members appointment to an outside body are:
- The interests of the Council can be assisted by the making of the appointment or renewal of the appointment;
  - The Member is able to devote the time needed to meet the expectations of the external body and the Council;
  - Where the external body has a geographical limit to its functions, whether the Member's ward falls within or close to that area should be taken into consideration;
  - The Member has the knowledge, skills or interest in the work of the organisation that may be required; and
  - The Member is prepared to provide such information on their participation in the work of the outside body as may be required.
- 2.5 All Members are eligible to be appointed as representatives of the Council to the Outside Bodies as listed in Appendix A. Members appointed to Outside Bodies must respond to all reasonable requests for information about the work of the Outside Body and their participation in it.
- 2.6 As a result of a Members appointment to an Outside Body, the nominated Members must consider the implications and responsibilities of their involvement and they must:
- Continue to comply with the Council's Code of Conduct when they are acting as a representative of the Council.
  - Comply with the Code of Conduct of the Outside Body they are appointed to if one exists; and

- Declare a personal interest in any business of the Council where it relates to a body they are appointed to by the Council.
- 2.7 All Members are recommended to make sure that when they take up their appointment with the Outside Body they have access to the key documents regulating the organisation such as its Constitution or terms of reference to ensure they are aware of what the Body is permitted to do and the authorisation through which its aims and objectives are achieved, and receive a briefing on the body or their role within it if necessary.
- 2.7 In undertaking their role, the nominated Members are required to ensure that the relevant Cabinet Member is updated at regular intervals as to the work being undertaken, and where necessary this will be incorporated into the Cabinet Reports to full Council.
- 2.8 The appointments are for the 2021/22 Civic Year only.
- 3. Conclusion**
- 3.1 Council is recommended to approve the recommendations set out in this report.

## Appendix A – Outside Body Appointments

Outside Body	Description	Position held Board Member/Trustee	Appointment
<b>Braintree District Access Group</b>	The Group actively promotes “barrier free design “to create environments which are accessible and useable by everyone. The Groups seeks to see improvements for disabled residents through close liaison with the various relevant departments at Braintree District Council and Essex County Council.	Board Member	Cllr A Hensman
<b>Braintree District and Eastlight Community Grant Panel</b>	<p>The Council &amp; Greenfields Community Fund, set up by Braintree District Council and Greenfields Community Housing in 2016, provides local voluntary organisations and charities with the opportunity to apply for funding.</p> <p>Following the change from Greenfields to Eastlight, this group has been updated to reflect the current position. Grants are available to support organisations working in the Braintree District that either help to improve health and well-being, increase aspirations and opportunities, or develop skills through training.</p>	Grant Panel Member	Cllr Rose Cllr L Walters Cllr P Tattersley
<b>Braintree United Charities</b>	Formed in 1899 by the amalgamation of seventeen smaller Charities. It is administered by Trustees who are all local people, including the Vicar of Braintree and representatives of the Council. The Trustees meet twice a year to consider applications for modest grants.	Trustee	Cllr J Baugh Cllr Miss V Santomauro Cllr Mrs L Walters Cllr T Everard
<b>Campaign to Protect Rural Essex (CPRE)</b>	The Essex branch of CPRE protects the diversity of the Essex Countryside to ensure that it remains a special place to live.	Board Member	Cllr P Schwier
<b>Dedham Vale and Stour Valley Advisory Committee</b>	Established for the AONB project area to provide joint working with a number of other Authorities, leading on key issues that affect the areas future, providing advice and guidance.	Committee Member	Cllr Mrs D Garrod Cllr Mrs W Scattergood

<b>Outside Body</b>	<b>Description</b>	<b>Position held Board Member/Trustee</b>	<b>Appointment</b>
<b>Earls Colne Airfield Liaison Committee</b>	The Committee provides an opportunity for local communities representatives and stakeholders to discuss the operation of Earls Colne Airfield.	Committee Member	Cllr G Courtauld
<b>Earls Colne and Halstead Educational Charity</b>	Formed in 1975, and is responsible for the distribution of grant funding for educational purposes.	Board Member	Cllr G Courtauld
<b>Friends of Bocking Windmill</b>	The windmill is a grade I Post Mill built in 1721 and is owned and maintained by Braintree District Council. A local group Friends of Bocking Windmill are registered as volunteers to the Council to enable them to open the mill to the public on a number of occasions throughout the year.	Member of the Friends Group	Cllr T Everard
<b>Friends of Halstead Public Gardens</b>	Formed to oversee the upkeep and maintenance of the gardens, to help promote it and assist in organising events.	Member of the Friends Group	Cllr Mrs J Pell
<b>Maltings Lane Forum</b>	The Maltings Lane Forum provides an opportunity for members of the community to discuss with the developer and local authority key issues regarding the development of the Maltings Lane area of Witham.	Board Member	Cllr J Coleridge Vacancy - (Cllr for Witham South Ward)
<b>Notley Green Community Association</b>	Formed to manage the Community Centre on behalf of Braintree District Council.	Board Member	Cllr F Ricci
<b>Rivenhall Playing Field Association</b>	The Association was formed as a non-profit making organisation to foster and promote community organisations and activities by way of lettings of Rivenhall Village Hall and/or the Albert Moss Playing Field.	Board Member	Cllr J Abbott Cllr B Wright



Members Allowance Scheme 2021/22		Agenda No: 13
Portfolio	Overall Corporate Strategy and Direction	
Corporate Outcome:	A high performing organisation that delivers excellent and value for money services	
Report presented by:	Councillor Graham Butland, Leader of the Council	
Report prepared by:	Kim Cole, Head of Governance and Monitoring Officer	
Background Papers:	Public Report	
Appendix A – Members Allowance Scheme	Key Decision: No	
Executive Summary:		
<p>In March 2019, the Council received a report from the Council’s appointed Independent Remuneration Panel. In consideration of that report, the Council approved the Members Allowance Scheme which is set out within the Council’s Constitution.</p> <p>In further consideration of that report, the Council is now invited to consider revisions to the Member Allowance Scheme as set out in Appendix A.</p>		
Recommended Decision:		
Council approves the Member Allowance Scheme, as set out in Appendix A.		
Purpose of Decision:		
Full Council discharges its functions in accordance with Article 4 of the Constitution.		

**Any Corporate implications in relation to the following should be explained in detail.**

<b>Financial:</b>	<p>The Council is still awaiting the determination of the national pay award increase. These will be considered at the conclusion of that process. As part of the budget setting process allocation was made for an anticipated pay award.</p> <p>The proposed changes as set out in this report are within the allocated budget.</p>
<b>Legal:</b>	In setting the Members Allowance Scheme the Council has to have regard to the views of the Independent Panel, which must meet at least once every 4 years. The Council Independent Remuneration Panel last met in March 2019.
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	In undertaking its work the Independent Remuneration Panel considered the need to enable all residents to hold office. The Equalities Impact Assessment undertaken at the time of their appointments is available on the Councils website.
<b>Customer Impact:</b>	No matters arising out of this report
<b>Environment and Climate Change:</b>	No matters arising out of this report
<b>Consultation/Community Engagement:</b>	The Independent Remuneration Panel is an independent panel drawn from residents of the District. Having conducted their review of the Councils the Independent Remuneration Panel submitted their recommendations for the Councils Member Allowance Scheme.
<b>Risks:</b>	No matters arising out of this report.
<b>Officer Contact:</b>	Kim Cole,
<b>Designation:</b>	Head of Governance and Monitoring Officer
<b>Ext. No:</b>	2629
<b>E-mail:</b>	Kim.cole@braintree.gov.uk

## **1. Introduction**

- 1.1 Following the conclusion of the Independent Remuneration Panels (IRP) review of the Council's Member Allowance, a report was submitted to the Council for its consideration.
- 1.2 The Council's initial consideration of that report and its recommendations took place on 25<sup>th</sup> March 2019, when the current member Allowance Scheme was approved by Council. This report remains valid for a period of four years, unless the Council commissions a further review of its allowance scheme.

## **2. Proposed Amendments**

- 2.1 In considering the Council's basic allowance, the IRP noted that the current Member Allowance Scheme at that time was £473 below the Essex average and £325 below the national average. The Council in 2019 approved the increase of the basic allowance in line with 2% increase in Officer pay award at that time. To date the 2021/22 pay awards have not been finalised. Accordingly the table set out in Appendix A, remains based on the levels set as part of the Council's consideration of the Allowance Scheme in 2019. Further consideration of any increase in line with the national officer pay awards will be considered at the conclusion of that process.
- 2.2 The IRP considered the work undertaken by the Planning Committee and its Members. The IRP recognised that the Planning Committee were subject to a significant workload, and that it was required to attend a large number of meetings with an increasing complexity of work. As a result the IRP made recommendations to reflect this. The Planning Committee has continued with its significant workload since 2019, and the forecast is that the level of work considered at this Committee will continue to increase. As a result the Council, subject to the approval of the Constitution at Agenda Item 15, are seeking to agree to the use of substitutes for the Planning Committee. This would ensure that the Committee are fully attended on each occasion and that the applications before it undergo the consideration of a full committee. In recognition of the acknowledgement made by the IRP of the workloads and the complexity of the matters considered, it is recommended that as part of the Special Remuneration Allowance (SRA) provisions there is the addition of a Planning Substitute Allowance of £50. This would be payable only on those occasions where the Substitute attends and fully participates in the meeting in the absence of the Planning Committee Member, and would be payable at the end of the year in accordance with the SRA paid to the Members of the Planning Committee.
- 2.3 The Council's Member Allowance Scheme includes the provision for an SRA to be paid to those vice chairman who help support those Committees which have a significant workload and/or manage complex agendas. In order to bring the Council in line with other local authorities, and to reflect the current SRA already paid to the Vice Chairmen of the Scrutiny Committees, Planning and Licensing Committees, it is recommended that the Council introduce an SRA for the Vice-Chairman of the Council. This SRA would be a multiplier of 0.5 of the Basic Allowance in line with those already incorporated within the Scheme, and would represent an SRA of £2,532.00.

- 2.4 Currently the Member Allowance Scheme recognising the role of a Deputy Cabinet Member, which is a role set out within the Council's Constitution. Subject to the approval of the Constitution at Agenda item 15, the Council is proposing to establish an additional role, namely a Cabinet Support Member. This role will sit outside the Deputy Cabinet Member role, and would provide additional support on aspects within the Cabinet Members portfolio, and attend meetings with the Cabinet Member where required. As the role would not hold the level of responsibility as a Deputy Cabinet Member there is a requirement for an additional allowance to be introduced to the Allowance Scheme. In recognition of the level of this role, it is recommended that the allowance permitted for this position is set at a multiplier of 0.75 of the Basic Allowance, which would represent £3,798.00. This In line with the allowance provided as a Vice-Chairman of the Performance Management Board,
- 2.5 Save for the changes outlined in this report, all other allowances set out within the Members Allowance Scheme as contained in the Council's Constitution remain unchanged.
- 3. Conclusion**
- 3.1 For the reasons set out in this report, the Council are invited to approve the recommendations as set out above.

## Appendix A

Special Responsibility	X Basic Allowance	Additional Allowance
<b>All Members Basic Allowance (April 2020)</b>		<b>£5,064.00</b>
<b>Council</b>		
Chairman of the Council	x 1	£5,064.00
Vice Chairman of the Council	x 0.5	£2,532.00
Leader of the Council	x 3	£15,192.00
Deputy Leader of the Council	x 2.5	£12,660.00
<b>Cabinet</b>		
Member of the Cabinet	x 2	£10,128.00
Deputy Cabinet Members	x 1	£5,064.00
Cabinet Support Member	x 0.75	£3,798.00
<b>Committees</b>		
<b>Planning Committee</b>		
Chairman of the Planning Committee	x 1.75	£8,862.00
Vice-Chairman of the Planning Committee	x 0.875	£4,431.00
Minor SRA to all Members of the Planning Committee (excluding Chairman and Vice-Chairman) at least 75% of called meetings of the Committee	x 0.25	£1,266.00
Substitutes – paid per meeting attended	x 0.04	£50.00
<b>Local Plan Sub-Committee</b>		
Chairman of the Local Plan Sub-Committee	x 1	£5,064.00
<b>Licensing</b>		
Chairman of the Licensing Committee	x 1	£5,064.00
Vice-Chairman of the Licensing Committee	x 0.5	£2,532.00
<b>Scrutiny Committees</b>		
Chairman of Performance Management Scrutiny Committee	x 1.5	£7,596.00
Vice-Chairman of Performance Management Scrutiny Committee	x 0.75	£3,798.00
Chairman of Governance and Audit Scrutiny Committee	x 1	£5,064.00
Vice-Chairman of Governance and Audit Scrutiny Committee	x 0.5	£2,532.00
Chairman of Community Development Scrutiny Committee	x 1	£5,064.00
Vice-Chairman of the Community Development Scrutiny Committee	x 0.5	£2,532.00
Chairman of the Partnership Development Scrutiny Committee	x 1	£5,064.00
Vice-Chairman of the Partnership Development Scrutiny Committee	x 0.5	£2,532.00

<b>Others</b>		
Leader of the Largest Opposition Group	x 1	£5,064.00
Leader of Other Opposition Groups of more than 5 members (Note no SRA is payable to Leaders of Groups of less than 5 Members)	x 0.25	£1,266.00
Chairman of the Independent Remuneration Panel	x 0.125	£633.00

Appointment of the Independent Person and Reserve Independent Person		Agenda No: 14
Portfolio	Finance and Performance	
Corporate Outcome:	A high performing organisation that delivers excellent and value for money services	
Report presented by:	Councillor Richard van Dulken, Chairman of the Corporate Governance Group	
Report prepared by:	Kim Cole, Head of Governance and Monitoring Officer	
Background Papers:	Public Report	
<a href="#">Report and Minutes of Council – 27<sup>th</sup> July 2020</a>	Key Decision: No	
Executive Summary:		
In accordance with the provisions of the Localism Act 2011, the Council must ensure that it has in place an Independent Person to support the Council's Member Code of Conduct complaint process. Accordingly the Council has conducted a recruitment process, and this report sets out the recommendations for the appointments of the Independent Person and Reserve Independent Person.		
Recommended Decision:		
Council agrees to:		
1) The appointment of: a) Mrs Mary Ball, as the Council's Independent Person; and b) Miss Layla Crowe, as the Councils Reserve Independent Person; c) both for a term of three years, with the provision to extend each term by one year.		
2) Authorise the Monitoring Officer to approve the extension of either the Independent Person or the Reserve Independent Persons terms by one year, following consultation with the Chairman of the Corporate Governance Group.		
Purpose of Decision:		
To ensure that the Council continues to meet its statutory obligation and to support the Council's Code of Conduct complaint process.		

**Any Corporate implications in relation to the following should be explained in detail.**

<b>Financial:</b>	These posts will be subject to a fixed annual allowance, which is already provided for within the allocated budget.
<b>Legal:</b>	In accordance with the Localism Act 2011, the Council is required to appoint an Independent Person, the proposals set out in this report will ensure that the Council meets this obligation.
<b>Safeguarding:</b>	No matters arising out of this report.
<b>Equalities/Diversity:</b>	No matter arising out of this report.
<b>Customer Impact:</b>	No matter arising out of this report.
<b>Environment and Climate Change:</b>	No matters arising out of this report.
<b>Consultation/Community Engagement:</b>	No matters arising out of this report.
<b>Risks:</b>	The current Independent Person is due to step down on 19 <sup>th</sup> April 2021. Accordingly should the Council not appoint a replacement in time, the Council would not met its statutory obligations under the Localism Act 2011.
<b>Officer Contact:</b>	Kim Cole
<b>Designation:</b>	Head of Governance and Monitoring Officer
<b>Ext. No:</b>	
<b>E-mail:</b>	Kim.cole@braintree.gov.uk



## **1. Introduction**

- 1.1 Under section 28(7) of the Localism Act 2011 it is a statutory requirement for Braintree District Council (the Council) to have appointed an Independent Person (IP) to discharge the statutory role in relation to any complaints received by the Council under the Council's Code of Conduct (the Code).
- 1.2 On 19<sup>th</sup> April 2021, the Council current Independent Person will step down, having supported the Council in this role since 2012. On 27<sup>th</sup> July 2020, the Council agreed that the recruitment process would take place in early 2021, and that an Interview Panel would be convened to undertake that process. The Interview Panel would consist of three Members of the Corporate Governance Group, namely Councillor Richard Van Dulken, Councillor Hylton Johnson and Councillor Dean Wallace.

## **2. The Independent Person**

- 2.1 The Independent Persons role is to work with the Council's Corporate Governance Group, the Standards Sub-Committee established from time to time and the Council's Monitoring Officer to help to ensure high standards of conduct of its elected Councillors within the District and across its 52 Parish/Town Councils.
- 2.2 The Independent Person will be consulted at various stages of the complaints process in respect of any allegation that a Councillor has breached the Code.
- 2.3 The Independent Person provides the Monitoring Officer with the opportunity to discuss a complaint with a third party, and provides a complainant with some reassurance that there is input to any decision from outside the Council.
- 2.4 There are restrictions that apply to individuals which would prevent them from being appointed as the Council's Independent Person. These are:
  - 2.4.1 They are, or have been within the last 5 years, an elected or co-opted Member or an Officer of the Council or of any of the Parish/Town Councils within its area;
  - 2.4.2 They are, or have been within the last 5 years, an elected or co-opted Member of any Committee or Sub-Committee of the Council or of any of the Parish/Town Councils within its area; or
  - 2.4.3 They are a relative or close friend of a current elected or co-opted Member or Officer of the District Council or any Parish/Town Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.
- 2.5 Each candidate confirmed that they were not caught by any of the restrictions set out above.

## **3. The Recruitment Process**

- 3.1 In order to build resilience and flexibility the Council agreed that the Interview Panel should look to appoint one Independent Person and up to two Reserve Independent Persons. This arrangement will provide the Council with options

in the event that there is a conflict of interest, for example where the Independent Person knows the complainant, or through absence or illness.

- 3.2 The Independent Person must be appointed through a process of public advertisement and application process. Accordingly the Council advertised the vacancy on its website and via other online resources, and the closing date was 22<sup>nd</sup> February 2021.
- 3.3 The Council received a number of applications for these roles, and all candidates indicated they wish to be considered for the Independent Person and the Reserve Independent Person positions.
- 3.4 On 12<sup>th</sup> and 15<sup>th</sup> March 2021, supported by the Monitoring Officer and the Governance and Member Manager, the Interview Panel conducted the interviews.
- 3.5 At the conclusion of the interviews, the Members of the Interview Panel carefully considered each candidate against the Independent Person Role Description and the Person specification, and would recommend that
  - 3.5.1 Mrs Mary Ball, is appointed as the Council's Independent Person; and
  - 3.5.2 Miss Layla Crowe, is appointed as the Council's Reserve Independent Person.
- 3.6 These appointments will take effect from 20<sup>th</sup> April 2021, and are for a term of three years, with the provision of a one year extension, activated at the Council's discretion. For ease, it is recommended that the Council delegate to the Monitoring Officer the authorisation to extend either the Independent Person or the Reserve Independent Persons terms by one year, following consultation with the Chairman of the Corporate Governance Group.

#### **4. Financial Considerations**

- 4.1 In accordance with the delegation from Council on 27<sup>th</sup> July 2020, following consultation with the Chairman of the Corporate Governance Group, the Cabinet Member for Finance and Performance Management and the Corporate Director (Finance) the remuneration was fixed to £750 per annum for the Independent Person and £250 per annum for the Reserve Independent Person. These are provided within the Council's Budget.

#### **5. Equalities and Diversity Implications**

- 5.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 5.2 An open recruitment process was undertaken by the Council, subsequently, there is no further consideration for the Council at this stage.

## **7. Legal Considerations**

- 7.1 The Council has a legal duty to appoint at least one Independent Person under the Localism Act 2011. The proposals set out in this report, ensure that the Council continues to meet that obligation.

<b>Constitution and Code of Governance</b>		<b>Agenda No: 15</b>
<b>Portfolio</b>	<b>Overall Corporate Strategy and Direction</b>	
<b>Corporate Outcome:</b>	<b>A high performing organisation that delivers excellent and value for money services</b>	
<b>Report presented by:</b>	<b>Councillor Graham Butland, Leader of the Council</b>	
<b>Report prepared by:</b>	<b>Kim Cole, Head of Governance and Monitoring Officer</b>	
<b>Appendix and Background Papers:</b>		<b>Public Report</b>
(a) The Constitution (Appendix 1); (b) The Procurement Procedure Rules (Appendix 2); and (c) The Petition Policy (Appendix 3).		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>The Council is required to review its Constitution on an Annual basis. This would normally be reflective of changes needed to ensure that it remains fit for purpose for the forthcoming 12 month period.</p> <p>However, the Constitution as a complete document has not been reviewed and substantially updated for a number of years. As the Council looks to strengthen its decision making, now is an appropriate time for a full review to be carried out.</p>		
<b>Recommended Decision:</b>		
<p>That Council approves:</p> <ol style="list-style-type: none"> <li>1. The Constitution as set out in Appendix A;</li> <li>2. The Procurement Procedure Rules as set out in Appendix B;</li> <li>3. The Petition Policy as set out in Appendix C.</li> </ol>		
<b>Purpose of Decision:</b>		
<p>To agree to the new Constitution, in order to ensure efficient governance arrangements are in place, bring certainty to its decision making, and comply with the Council's Statutory requirements.</p>		

Any Corporate implications in relation to the following should be explained in detail.	
<b>Financial:</b>	No matters arising out of this report.
<b>Legal:</b>	<p>The Council is required to have in place a Constitution which sets out the Council's Procedure rules, its Code of Conduct and any such information as the Council considers appropriate.</p> <p>The proposals set out in this report ensure that the Council complies with its statutory obligation and ensures that the Constitution remains a useable document for its Members, Officers and members of the Public.</p>
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	Equality Impact Assessment not necessary
<b>Customer Impact:</b>	No matters arising out of this report
<b>Environment and Climate Change:</b>	No matters arising out of this report
<b>Consultation/Community Engagement:</b>	No matters arising out of this report
<b>Risks:</b>	No matters arising out of this report
<b>Officer Contact:</b>	Kim Cole
<b>Designation:</b>	Head of Governance and Monitoring Officer
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## 1. Introduction

- 1.1 The Council has adopted its current Constitution, which sets out how the Council works, how decisions are made and the procedures that are followed to ensure these are efficient, transparent and the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.
- 1.2 The Council is required to review its Constitution on an annual basis. This would normally be reflective of changes necessary to ensure that it remains fit for purpose for the forthcoming 12 month period.
- 1.3 However, the Constitution as a complete document has not been reviewed and substantially updated for a number of years but rather has gone through ad hoc updates as the need has arose.
- 1.4 As a result the Monitoring Officer undertook the review of the Council's Constitution together with the Council's Governance arrangements and through a programme of works ensured that the Constitution, in its entirety, was considered and updated where necessary to reflect the current practices, ensure compliance with its statutory obligations and ensure that the Constitution remains a useable document for its Members, Officers and members of the Public.

## 2. Constitution Review

- 2.1 The review looked to bring consistency to its content, remove duplication, simplify and standardise the language used, and bring its contents up to date to reflect the practices of the Council. Specific key changes are set out in this report.
- 2.2 In order to ensure Member engagement in the review, the revisions were considered through a variety of gateways, and the key dates are set out below.

	<b>Developing Democracy Group</b>	<b>Corporate Governance Group</b>
Chapter 1: The Articles	20 October 2020	12 November 2020
Chapter 2: Procedure Rules (Part one) and Governance Review	16 December 2020	26 January 2021
Chapter 2: Procedure Rules (Part Two) and Chapter 3: Codes (Part one)	24 February 2021	3 March 2021
Chapter 2 (Part three) and Chapter 4: Functions and Responsibilities	29 March 2021	1 April 2021

- 2.3 Currently the Constitution is divided into three separate Chapters, the review seeks to expand this to four chapters which will collectively set out the rules governing the Council's business. These Chapters are as follows:

**(a) Chapter 1 – Articles of the Constitution**

The Articles explain the rights of citizens and how the key parts of the Council operate and explains key roles and responsibilities.

**(b) Chapter 2 – Council Procedure Rules**

Contains the Council's Standing Orders and Procedure Rules. These govern how the Council will conduct its business, and provides the framework through which its meetings will be conducted.

**(c) Chapter 3 – Codes and Schemes**

Contains the Member and Officer Code of Conduct, together with the Members' Allowance Scheme.

**(d) Chapter 4 – Responsibility for Functions**

Sets out the keys delegated powers to each element of the Council's decision making structure

**3. Introduction and Indexes**

- 3.1 It is important to remember that the Constitution is a public facing document, and one that is used by members of the public to understand the Council and its functions and how it takes decisions. Accordingly, a new introduction has been brought in to help establish what the Constitution is and its general principles, which will start to guide the reader through the various chapters.
- 3.2 Each chapter of the Constitution currently has its own index. This can be confusing when searching for specific topics within the Constitution and means that sections and headings contained within it are not easily found. Therefore a whole new index covering all four chapters will now appear at the start of the Constitution.

**4. Chapter One: The Articles**

- 4.1 The Articles have been revised and through bringing together key topics, the number of Articles has been reduced from 16 to 11. The 11 Articles have also been reordered so that the reader is taken through a start to finish process of how the Council operates and key Councillor and Officer roles.
- 4.2 Article 3 (Officers) has been updated to bring in definitions that will be used throughout the Constitution, including the use of the term "Chief Officers". In addition it clearly provides the functions of each of the Statutory Officers and who holds those roles within the Council.
- 4.3 It also introduces amendments to the Corporate Directors titles to include the areas for which they have responsibility for accordingly the Corporate Directors will be identified as follows:
- Corporate Director (Finance)
  - Corporate Director (Growth)
  - Corporate Director (Operational)

- 4.4 This is necessary to provide clarity as to which Corporate Director holds what functions. It is essential that Officers and the Public are able to clearly identify the person with who responsibility has been delegated, and for the Council to be clear on who is authorised to take decisions in order to robustly defend any challenge against its decision making powers.
- 4.5 Article 4 (Councillors) has been updated and now includes the eligibility criteria for becoming a Councillor having been identified as missing from the current version. It also then sets out the roles, duties and responsibilities of Councillors, before then providing clear defined roles of key Councillor roles, including the Chairman and Vice-Chairman of the Council and Leader and Deputy Leader of the Council, and brings all key roles within one Article.
- 4.6 The functions of Council have been updated and clarified so that all the key duties and responsibilities which fall to Council are contained within one Article.
- 4.7 The Policy Framework is made up of mandatory and adopted plans and strategies. For ease and so that members of the public can understand which are mandatory these have been separated out into their respective lists.
- 4.8 Article 6 (Cabinet) has been updated to provide an explanation of what the Cabinet is, how its membership is established, and what its functions are. It also contains details of the Cabinet Members, who appoints them, what are their duties and responsibilities and any limits to their decision making powers.
- 4.9 Article 7 (Decision Making) sets out how the Council, Cabinet and their Committees take decisions. It sets out the definition of the Decision Planner and links this to the Forward plan. The Definition of Key Decisions has been reviewed and currently there are two financial limits, £50,000 – Revenue and £100,000 – Capital. The current definition requires that any expenditure or saving which reaches these limits will be a Key Decision. It is unusual for a Council to have two values, and most will opt for one monetary value, which is clear and easy to identify. Accordingly, the Council's Key Decision threshold has been increased to £150,000.
- 4.10 Previously the Council Committees each held their own Article, these have been condensed so that all Council Committees are listed within one Article to provide clarity as to which Committees are the Council Committees and therefore subject to the political balance rules.
- 4.11 Currently the Articles require sealing to be applied to contracts identified by the Monitoring Officer. This can be very difficult to define and results in clarification being sought or contracts that would have benefited from the additional protection provided by sealing to be signed underhand. In order to provide certainty, the sealing requirement has been linked to a value of £150,000.



## 5. Chapter 2: The Procedure Rules

5.1 Chapter 2, contains six procedure rules in total:

- (a) The Council Procedure Rules
- (b) The Cabinet Procedure Rules
- (c) The Budget and Framework Procedure Rules
- (d) The Access to Information Procedure Rules
- (e) The Overview and Scrutiny Procedure Rules
- (f) The Officer Employment and Disciplinary Procedure Rules.

5.2 Each of these have been revised and updated to reflect the current practices in place, and strengthen and simplify where possible, ensuring that they are all robust and fit for purpose.

5.3 The Council Procedure Rules (CPR) govern how Council (Cabinet and Committee) meetings will be managed and the principles through which debates will take place.

5.4 Currently the Constitution refers to the three different types of meetings Council can hold, its Annual Meeting, the Ordinary Meetings and the Extraordinary Meetings. The revision separates these out into their own headings and expands on what business can be transacted at those meetings, and how each of those meetings are called. The order of business has also been reordered so as to ensure a smooth flow to the meeting.

5.5 In addition the deadlines within the Council Procedure Rules have been revised to ensure that there is sufficient time for the subsequent actions to take place. Accordingly the deadlines have been reviewed and it was felt that in order to better manage meeting preparation and to enable Members to have sufficient opportunity to prepare ahead of the meeting these should be amendment as follows:

### Proposed lead in time for Meetings

<b>1</b>	<b>Mon</b>	5:30pm <ul style="list-style-type: none"><li>- Notice of Motions Deadline</li><li>- Councillor Statement deadline</li><li>- Chairman Statement deadline</li></ul>
<b>2</b>	<b>Tues</b>	Latest date for the Circulation of Motions to all Councillors
<b>3</b>	<b>Weds</b>	
<b>4</b>	<b>Thurs</b>	
<b>5</b>	<b>Fri</b>	Publication of the Agenda
<b>6</b>	<b>Mon</b>	
<b>7</b>	<b>Tues</b>	Draft Order Paper to Chairman
<b>8</b>	<b>Weds</b>	12:00 noon - Amendment to Motions Deadline
<b>9</b>	<b>Thurs</b>	12:00 noon - Public Question Time Deadline
<b>10</b>	<b>Fri</b>	5:30pm – Final Order paper to the Chairman
<b>DoM*</b>	<b>Mon</b>	

\*DoM – Day of Meeting

- 5.6 During the course of a Council meeting, where written responses are promised, the Constitution currently does not provide a deadline by which those written responses will be provided. If a Member was to ask a question outside a formal meeting environment, the deadline for a written response is 10 working days. Accordingly it would seem sensible to ensure that all written responses are dealt with in the same manner and bring a consistent approach, and as such the 10 working day timescale has been added.
- 5.7 The terminology for deadlines seems to also cause confusion and can be difficult to interpret. In order to provide some clarification, it is proposed that the timescale provision simply refer to clear working days. With Working days defined as between the hours of 9am and 5pm.
- 5.8 Under the Motions provision there is now the inclusion of a requirement that any Motion relating to an executive function shall be deferred to the Cabinet for consideration. This ensures that there is a clear separation of powers, functions and responsibilities and makes sure that consideration is undertaken by the right decision maker.
- 5.9 Within the Council Procedure Rules, the provision relating to Motions have been strengthened, and now provides for up to 6 Motions to be brought to any one meeting of Council, a reduction from the current 16, and that these will be proportioned between the Political Groups as following:
- (a) 3 Motions to the Conservatives;
  - (b) 2 Motions to the Green and Independent Group; and
  - (c) 1 Motion to the Labour and Halstead Residents Association.
- 5.10 Further, the questions to the Leader and Cabinet have been altered so as to allow any Member to bring up to 2 questions, and for the Leader of the Opposition to bring up to 4 questions during that item on the agenda. There is no longer the opportunity to bring any supplementary questions. This helps with the management of this part of the Council business.
- 5.11 The current Constitution does not set out any provisions around reports or their recommendations. Accordingly currently, as seen at full Council on 7<sup>th</sup> December 2020, it is possible to bring an amendment to a report. However to safeguard the integrity of reports, it is proposed to include an exclusion from Motions of amendments to reports and their recommendations. However, there will be an exemption to this principle in respect of the Budget Reports, to which amendments to the recommendations will be permitted under the Amendment to Motion provisions.
- 5.12 Finally, there is also the inclusion for each Political Group to appoint annually, up to three named Substitutes to the Planning or Licensing Committees in instances where the appointed Member is unable to attend.

### **Cabinet Procedure Rules**

- 5.13 The amendments to the Cabinet Procedure Rules have really focused on identify any gaps outside of the CPR, which apply to meetings of Cabinet, and to bring clarification; these are as follows:

- (a) there is now a provision that allows for the Leader to call additional Cabinet meetings as and when required;
- (b) For the avoidance of doubt the quorum provisions are also now included;
- (c) Public question time has now been included as part of the order of business;
- (d) The determination of the agenda will be in consultation with the Chief Executive, this currently reflects the working practice;
- (e) There is the inclusion of the ability for the Leader to take Urgent decisions relating to executive functions.

### **Access to Information Procedure Rules**

- 5.14 In the main the Access to Information Procedure Rules have been standardised and reordered in line with the review.
- 5.15 There is now the inclusion of the use of recordings by those attending a meeting. This is a statutory provision, and therefore the inclusion simply sets out those provisions for certainty.
- 5.16 The redrafting now makes it clear what the distinction is between Confidential Information and Exempt Information and the provisions applicable to each.
- 5.17 Currently the Council publish its Decision Planner which sets out the intended decisions for Council and Cabinet over a four month period. The purpose of the Decision Planner is to enable members of the public to understand what decisions are on the horizon, and therefore the information provided should be meaningful. Whilst some decisions will be known this far in advance, the majority are not so clear, and therefore the information captured in the Decision Planner isn't always as detailed as it could be. Therefore it is proposed that this period is reduced to 3 months, so that when items are added they are done so with assurance that the information is meaningful and sufficient.
- 5.18 To provide certainty around Cabinet Member and Officer decision making, there is now the inclusion of the parameters in which that decision can be taken, and that there must be a report on the issue, which must be published.

### **Financial Procedure Rules**

- 5.19 The Financial Procedure Rules are a key part of the Constitution and set out associated processes and authorities to Cabinet Members and Officers for the financial administration of the Council. These have regard to the overall regulatory framework of the Council and the approach to the Council's financial management.
- 5.20 The Financial Procedure Rules seek to ensure that the Council conducts its affairs in a way which complies with specific statutory provisions and reflects best local government professional practice. They reinforce the standards of conduct in public life, particularly the need for openness, accountability and integrity.

- 5.21 The main changes have been to introduce financial limits for Chief Officers, so that they are permitted to approve spend within the Council within clearly defined thresholds. The proposed limits have been set in consultation with the Head of Finance and the Corporate Director (Finance), and support the framework through which the Council undertakes its procurement activities and the delegations contained within the new Chapter 4.
- 5.22 The current Constitution is then silent on who holds the authority for spend below the Key Decision threshold. It is sensible to clearly identify the individuals are able to take decisions that fall within values under the Key Decision threshold. This not only provides certainty, and ensures robust decision making is undertaken, but also ensures that Cabinet are able to focus on those strategically important decisions which involve high risk, are of significant importance or are of high value.
- 5.23 Accordingly the Council's decision making process would become a lot smoother, and would enable the Council through its Officer to take decisions quickly were necessary, without having to rely upon meetings being convened.
- 5.24 The other point of clarification that has been included is the Council's powers around the disposal of its land assets, and now provides a clear and unambiguous process through which decisions around the Council's disposal of land and premises can be made, be that through the outright sale of the asset or by leasing or licensing it to a third party.

## **6. Chapter 3 – The Codes and Schemes**

- 6.1 Chapter 3 of the Constitution contains all the Council's Codes and Scheme applicable to the management of its Members and includes:
  - (a) Member Code of Conduct;
  - (b) Gifts and Hospitality Guidance;
  - (c) Members Allowance Scheme; and
  - (d) Protocol on Member/Officer relationships.
- 6.2 Members will be aware that the Model Code of Conduct gained approval from the LGA Board in early December 2020 with the intention that each Authority is free to adopt the new Model Code, and are free to make local tweaks to it if they require. Accordingly it had been the intention to capture the new model Code as part of this Constitution review.
- 6.3 However there have been further consultation within Essex, and there is a combined desire for all the Essex Authorities to use this as an opportunity to agree one Code for the County. This would mean that County, Districts/Boroughs and Parish Members would all be working under the same Code. This has significant benefits, not only to twin hatted Members, but also to members of the public, making it easier to understand which Code apply and how to all Members across Essex. Until this piece of work has been finalised it make sense to retain the current member Code of Conduct.
- 6.5 The current Constitution contains the Gifts and Hospitality Guidance. This section is designed to support the corresponding provisions as set out in the

Member Code of Conduct. In light of the requirement to retain the current Member Code of Conduct, the proposal are to also keep the current Gift and Hospitality Guidance.

- 6.6 As set out in the report at Agenda Item 13, the Member Allowance Scheme has been updated to reflect the additional role of the Substitute Member for Planning and the Cabinet Support Member and bring parity to the role of the Vice-Chairman of the Council.

## **7. New Chapter 4: Functions and Responsibilities**

- 7.1 This is a new Chapter to the Council's Constitution and is in three parts:
- (a) The Functions
  - (b) The Cabinet Member Scheme of Delegation; and
  - (c) The Officer Scheme of Delegation.
- 7.2 This Chapter is fundamental to understanding how the Council takes decisions, and who is authorised to take them outside of Council, Cabinet, and their Committees.
- 7.3 The first part sets out the various functions which are operated within the Council, namely, Council, Executive and Local Choice, and provides a clear explanation of each of them.
- 7.4 The second part sets out the details of the Cabinet Member Portfolios and the general delegations provided to Cabinet Members by the Leader. In doing so it also sets out any limitations, including reiterating that Cabinet Members are not able to take Key Decisions.
- 7.5 The third part is the Scheme of Delegation to Officers. This sets out the delegations given to Chief Officers, Statutory Officers and the Head of Governance by Council or by the Leader. It pulls together all the previous delegations scattered throughout the current Constitution, contained in decision reports, minutes, policies or statements. It enables Members, Officers and the public to see in one place who is responsible for what functions and decisions and clear sets out any parameters through which those delegations can be actioned.

## **8 Code of Governance**

- 8.1 The Council are committed to the seven principles of Good Governance as agreed by the Chartered Institute of Public Finance Accountancy and the Society of Local Authority Chief Executives. In order to support these, it is proposed that alongside the Council's Constitution there is a Code of Governance that underpin those principles and is comprised of a framework of policies, procedures, behaviours and values by which the Council is controlled and governed.

8.2 The seven principles of Good Governance are:

- (i) Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rules of law.
- (ii) Ensuring openness and comprehensive stakeholder engagement.
- (iii) Defining outcomes in terms of sustainable economic, social and environmental benefits.
- (iv) Determining the interventions necessary to optimize the achievement of the intended outcomes.
- (v) Developing the entity's capacity, including the capability of its leadership and the individuals within it.
- (vi) Managing risks and performance through robust internal control and strong public financial management.
- (vii) Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

8.3 The documents that make up this framework provide the structures and guidance that the Members and Officers require in order to ensure effective governance across the Council.

8.4 Currently the proposal is to have the following documents sitting within the Code of Governance:

- a) Annual Governance Statement, within Statement of Accounts
- b) Procurement Procedure Rules
- c) Virtual Meeting Standing Orders
- d) Virtual Meeting Handbook
- e) Counter Fraud Strategy
- f) Code of Conduct Complaints Procedure
- g) The Complaint's, Comments and Compliments Procedure
- h) External Audit findings
- i) Decision Planner
- j) Member Register of Interests, within individual Councillor profiles
- k) Corporate Strategy
- l) Annual Plan
- m) Petitions Policy
- n) Statement of Accounts
- o) Whistleblowing Policy
- p) Your right to know, how to request information from us

8.5 However, additional Policy documents could be further added if it was relevant to do so.

## **9. The Procurement Procedure Rules**

9.1 Chapter 2 of the Constitution previously contained the Contract Procedure Rules, however these have been removed and replaced with the Procurement Procedure Rules within the Code of Governance.

- 9.2 These Procurement Procedure Rules are issued in accordance with section 135 of the Local Government Act 1972, and govern the way the Council undertake its tender process, awards Contracts and undertakes its contract management. All Council procurements must be undertaken in the best interests of the Council and in accordance with good practice and the legislative framework.
- 9.3 The Procurement Procedure Rules govern all Relevant Contracts across the whole Council regardless of value, to ensure that the Council purchases these in accordance with the all relevant legislative provisions and will ensure that procurement requirements are appropriately planned, reported, monitored and awarded.
- 9.4 The Procurement Procedure Rules provide a complete start to finish process of what is required in any procurement exercise and set out the thresholds through which Officers and Cabinet Members can authorise the commencement of a procurement exercise, and approve the award of the contract at the conclusion of that process. These are then further supported by the provisions of the Financial Procedure Rules, and the new Chapter 4.

## **10. The Petition Policy**

- 10.1 Previously the Councils Constitution, as part of the Councils Procedure Rules set out the provision applicable to the Councils management of petitions submitted for consideration. The review has identified that these provisions would be better addressed within their own Policy Document, which could be expanded upon to ensure that it covers the full process, without then over whelming the Councils Procedure Rules.
- 10.2 In order to come within the meaning of the Petition Policy, a petition would need to have at least 30 signatories, and all signatories would have to live within the administrative boundaries of Braintree and are recorded on the electoral register.
- 10.3 How the Council will deal with a petition will largely be determined by the number of valid signatures it contains. The thresholds have been revised and are as follows:
- a) Signed by between 30 – 999 people – the petition will be considered by the Performance Management Scrutiny Committee who may determine the petition or defer it to a Chief Officer or Cabinet Member for consideration
  - b) Signed by between 1,000 – 1,999 – the Petition will be considered by Cabinet
  - c) Signed by 2,000 or more – the Petition will be considered by Council.
- 10.4 The e-Petition platform will be available on the Council's website from the 1<sup>st</sup> May 2021.

## **11. Conclusion**

- 11.1 The changes proposed within this report follow the Governance and Constitution review. These changes are necessary to bring to Constitution up to date, and to remove ambiguity and duplication. Through standardising the language and bringing in key definitions, the Constitution will become a useable document which can be understood by everyone.
- 11.2 In line with details set out in this report, Council is recommended to approve the Constitution as set out in Appendix A, the Procurement Procedure Rules, in appendix B and the Petition Policy in Appendix C.





## **The Constitution**



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## **Introduction**

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

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

### **Principles of the Constitution**

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

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

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

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

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

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

- (d) Chapter 4 – Responsibility for Functions  
This sets out the key delegated powers for each element of the Councils decision making structure.

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

### **How the Council Operates**

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

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

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

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

### **How Decisions are made**

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

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

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

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

### **Overview and Scrutiny**

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

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

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

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

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

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



## **Chapter 1**

### **The Articles**



# **Article 1 – The Constitution**

## **1.1 The Council’s Constitution**

This is the Constitution of Braintree District Council.

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

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

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

## **1.2 Purpose of the Constitution**

The Constitution provides a framework which:

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

## **1.3 Publication**

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



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

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

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

#### **1.4 Interpretation**

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

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

#### **1.5 Suspension**

The Articles of this Constitution may not be suspended.

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

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

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

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

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

In undertaking this task the Monitoring Officer may:

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

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

## **1.7 Changes to the Constitution**

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

However, if either:

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

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

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

### **2.1 Introduction**

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

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

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

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

#### **Access to Information**

The Public have a right to:

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

#### **Participation**

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

## **Voting**

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

## **Petitions**

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

## **Complaints**

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

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

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

## **Treatment by the Council**

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

## **2.3 The Public Responsibilities**

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

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

## **Article 3 – Officers**

### **3.1 General**

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

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

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

### **3.2 Management Structure**

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

The Chief Officers contribute:

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

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

The following posts shall be designated as Chief Officers:

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

### **3.3 Statutory Officers**

The Council has designated the required statutory posts as follows:

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

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

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

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

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

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

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

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

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

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

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

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

### **3.6 The Monitoring Officer**

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

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

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

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

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

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



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

### **4.1 Composition and Eligibility**

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

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

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

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

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

An election was held in 2019 and the next election will be held in 2023. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **4.3 The Councillors**

#### **Purpose**

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

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

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

### **Roles and Responsibilities**

Members shall be responsible for the following duties and responsibilities:

- (a) To fulfil the statutory and locally determined requirements of an elected Member, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the Council;
- (b) To participate effectively as a member of any Committee or Panel to which the Member is appointed, including related responsibilities for the services falling within the Committee's terms of reference, and its liaison with other public bodies to promote better understanding and partnership working;
- (c) To participate in the activities of an outside body to which the Member is appointed, providing two-way communication between the organisations and representing the policies and practices of the Council. Also, for this purpose, to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community needs and aspirations in respect of that body's role and functions;
- (d) To participate in the scrutiny or performance review of the services of the Council including, where the Council so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council;
- (e) To participate, as appointed, in consultative processes with the community and with other organisations;
- (f) To provide a link between the Council and the community, through the various forums available;
- (g) To develop and maintain a working knowledge of the Council's services, management arrangements, functions/duties and constraints, and to develop good working relationships with relevant officers of the Council;
- (h) To develop and maintain a working knowledge of the other organisations and services which serve the District;
- (i) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process;
- (j) To conduct the business of the Council within the Council and not through the written or broadcast media;

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

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

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

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

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

##### **Purpose**

The Chairman is required to:

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

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

The Chairman will hold the following duties and responsibilities:

- (a) To be politically impartial and uphold the democratic values of the Council;
- (b) To represent the Council at civic and ceremonial functions, acting on behalf of and supported by, the Whole Council in a non-partisan manner;
- (c) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of

the community;

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

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

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

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

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

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

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

- (a) they resign from the office;

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

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

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

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

### **Purpose**

The Leader is required to:

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

### **Duties and Responsibilities**

The Leader will hold the following duties and responsibilities:

- (a) All Executive functions of the Council are vested by law in the Leader;

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

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

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

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

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

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

##### **Purpose**

The Deputy Leader is required to:

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

### **Duties and Responsibilities**

The Deputy Leader will hold the following duties and responsibilities:

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

## **4.8 Rights of all Councillors**

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

## **4.9 Conduct of Councillors**

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

## **4.10 Allowances**

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

## **Article 5 – The Council**

### **5.1 Introduction**

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

### **5.2 Functions of Council**

Only the Council will exercise the following functions:

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



the making of local legislation or private Bills;

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

### **5.3 Responsibility for Functions**

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

### **5.4 Council Meetings**

There are three types of Council Meetings:

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

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

### **5.5 The Policy Framework**

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

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

The Policy Framework means the following plans and strategies:

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

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

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

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

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

## **5.6 The Budget**

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

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax, and decisions relating to the control of the Councils borrowing requirements, the control of its capital expenditure and the setting of virement limits.

## **Article 6 – The Cabinet**

### **6.1 The Cabinet**

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

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

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

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

### **6.2 Composition of Cabinet**

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

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

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

#### **Deputy Cabinet Members**

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

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

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

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

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

### **Cabinet Support Members**

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

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

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

They shall not have decision making powers (executive or otherwise).

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

### **6.3 Functions of the Cabinet**

The Cabinet shall exercise the following functions:

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

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

## **6.4 Excluded Functions**

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

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

## **6.5 The Cabinet Members**

### **Appointment of Cabinet Members**

The Leader will appoint the Cabinet Members.

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

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

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

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

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

### **Purpose**

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

- (a) to provide collective and individual leadership as part of the Cabinet;
- (b) to undertake lead responsibility for their allocated portfolio as set out in Chapter 4 of this Constitution; and
- (c) to contribute effectively towards the strategic direction of the Council.

## **Duties and Responsibilities**

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

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

## **6.6 Delegation of Functions**

The Leader may delegate functions to a Cabinet Member, a sub-committee of

Cabinet, the Chief Executive, a Senior Officer under whose managerial responsibility the executive function falls or any other Officer. Any matter not specifically delegated remains the responsibility of the Leader.

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

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

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

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

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

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

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

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

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

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

## **Article 7 – Decision Making**

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

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

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

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

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

### **7.3 Types of Decisions**

Decisions and reasons for all decisions shall be recorded.

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

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

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

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

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



## **Decisions taken by Cabinet Members**

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

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

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

## **Decisions by Committees**

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

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

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

## **Decisions taken by Individual Officers**

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

### **7.4 Decision Planner**

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

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

### **7.5 Key Decisions**

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

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

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

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

## **7.6 Non-Key Decisions**

The following are examples of non-key decisions:-

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

## **Article 8 – Council Committees**

### **8.1 Introduction**

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

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

### **8.2 Planning Committee**

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

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

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

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

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

The Planning Committee shall perform the following functions, in accordance with the Scheme of Delegation set out in Appendix D of Chapter 4 of this Constitution:-

- (a) To determine and advise on all planning applications and any local development proposals;
- (b) To authorise or determine:-
  - (i) Planning obligations;
  - (ii) All matters concerning public path orders required as a result of planning legislation;
  - (iii) Advertisement consents;
  - (iv) Conservation area consents and notices;
  - (v) Revocation or modification of planning consents by order under planning legislation;
  - (vi) Any enforcement action including in respect of advertisement contraventions;

- (vii) Tree preservation orders;
  - (viii) Consent to carry out all work to protected trees;
  - (ix) Listed building consents and notices;
  - (x) Direct action by execution of works, taking steps and/or carrying out operations by or on behalf of the Council under any planning
  - (xi) legislation, including the recovery of any costs or expenses;
  - (xii) Legal proceedings in respect of any breach of planning obligations;
  - (xiii) Any other notices, orders, certificates, demands, permissions, consents and grants under planning legislation;
  - (xiv) Observations, comments and representations on development proposals being determined by other bodies and/or in adjoining or neighbouring administrative areas.
  - (xv) Matters relating to Highways in respect of planning matters.
  - (xvi) Representation of the Council in any appeal against determination of a Planning application
- (c) To exercise the Council's statutory duties in respect of the Building Regulations and associated legislation.
  - (d) To do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of those functions.
  - (e) To exercise all powers, duties and functions of the Council contained within or referred to in statutory provisions from time to time in force within the terms of reference of this Committee.
  - (f) So far as the responsibilities may arise under the relevant legislation, functions set out in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other town and country planning and development control functions.

### **8.3 Licensing Committee**

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

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

- (a) discharge the licensing functions on behalf of the Licensing Authority, as

determined under the Licensing Act 2003 and Gambling Act 2005; in practice this will normally be undertaken by a Sub-Committee known as the Licensing Sub- Committee Hearing;

- (b) determine licences for hackney carriages/private hire vehicles and their drivers and operators; in practice this will normally be undertaken by a Sub-Committee known as the Drivers' Panel;
- (c) To discharge any licensing and regulatory Functions not reserved to Cabinet; and
- (d) to determine licences for market and street trading etc.

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

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

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

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

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

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

- (b) To deal with all matters and determined applications which are the responsibility of the Council in relation to street trading consents under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, and Pavement Permits under the Highways Act 1980;
- (c) To deal with all matters which are the responsibility of the Council under the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of Sex Establishments;
- (d) To set the charging policy, fees and tariffs in relation to functions which fall within their duties and responsibilities;

- (e) To approval operational policies in relation to functions which fall within their duties and responsibilities;
- (f) To discharge any licensing and regulatory functions not reserved to Cabinet; and
- (g) So far as the responsibilities may arise under the relevant legislation, functions set out in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other licensing, registration and environmental protection functions.

The Licensing Committee can:-

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

#### **8.4 Other Committees**

##### **Independent Remuneration Panel**

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

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

## **Article 9 –Scrutiny Arrangements**

### **9.1 Purpose of Scrutiny**

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

The Councils Scrutiny arrangements shall comprise of:

- (a) the Performance Management Scrutiny Committee;
- (b) the Community Development Scrutiny Committee;
- (c) the Partnership Development Scrutiny Committee; and
- (d) the Governance and Audit Scrutiny Committee.

### **9.2 The Performance Management Scrutiny Committee**

The Performance Management Scrutiny Committee shall have 9 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Performance Management Scrutiny Committee will perform the following functions:-

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

carry out joint scrutiny;

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

### **9.3 The Community Development Scrutiny Committee**

The Community Development Scrutiny Committee shall have 9 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Community Development Scrutiny Committee functions shall be carried out in relation to the following areas:

- (a) community priorities and solutions;
- (b) engaging and identifying needs of other groups;
- (c) building relationships to ensure policies are developed to empower and not constrain;
- (d) reputation management through promotion, delivery and communication; and
- (e) town and parish council shared working (identifying opportunities whilst establishing priorities).

The Community Development Group will perform the following functions:

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



carry out joint scrutiny.

#### **9.4 The Partnership Development Scrutiny Committee**

The Partnership Delivery Scrutiny Committee shall have 9 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Partnership Development Scrutiny Committee functions shall be carried out in relation to the following areas:

- (a) driving forward existing partnerships;
- (b) helping to bring partnership working into the Council's mainstream work;
- (c) bringing together partners within the public sector for the benefit of the community;
- (d) developing an approach to future partnership working with both the public and the private sector; and
- (e) To receive the annual report of the Community Safety Partnership.

The Partnership Development Scrutiny Committee will perform the following functions:-

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

#### **9.5 The Governance and Audit Scrutiny Committee**

The Governance and Audit Scrutiny Committee shall comprise 9 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

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

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

The Governance and Audit Scrutiny Committee will perform the following functions:-

**Governance, Risk and Control**

- (a) To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework, and to consider the local code of governance ensuring arrangements are adequate and operating effectively in practice;
- (b) To review the Annual Governance Statement before approval by the Cabinet, and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control;
- (c) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;
- (d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council
- (e) To monitor the effective development and operation of risk management in the Council, including the progress in addressing risk-related issues reported to the Committee
- (f) To endorse the annual Risk Management Strategy and recommend it to the Cabinet for adoption;
- (g) To consider reports on the effectiveness of the internal control environment and monitor the implementation of agreed actions;
- (h) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption
- (i) To monitor the Counter Fraud Strategy, actions and resources;
- (k) To review the governance arrangements for significant partnerships or collaborations.

**Internal Audit**

- (a) To approve the Internal Audit Charter;
- (b) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources;
- (c) To approve significant interim changes to the risk-based internal audit plan and resource requirements;

- (d) To make appropriate enquiries of management and the Internal Audit Manager (as Head of Audit) to determine if there are any inappropriate scope or resource limitations;
- (e) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Audit Manager (as Head of Audit), and to approve and periodically review safeguards to limit such impairments;
- (f) To consider reports from the Audit Manager (Head of Audit) on internal audit performance, including key findings from audit work, issues of concern, the results of the Quality Assurance and Improvement Programme (QAIP), conformance to the Public Sector Internal Audit Standards (PSIAS) and any areas to include in the Annual Governance Statement (AGS);
- (g) To consider the Audit Manager (Head of Audit) Annual Report, including the conformance with PSIAS and the results of the QAIP as indicators of the reliability of internal audit conclusions, and the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with a summary of the work supporting the opinion;
- (h) To consider summaries of internal audit findings, including those where the Audit Manager (Head of Audit) has concluded that management has accepted a level of risk which may be unacceptable to the Council, or where there are concerns about the implementation of agreed actions;
- (i) To contribute to the QAIP, in particular to the external quality assessment of internal audit which takes place at least once every five years;
- (j) To consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement; and
- (l) To provide free and unfettered access to the Audit Committee Chair for the Audit Manager (Head of Audit), including the opportunity for a private meeting with the Committee

### **External Audit**

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

- (e) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial Reporting**

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

### **Accountability Arrangements**

- (a) To report to the Council on the their findings, conclusions and recommendations concerning the adequacy and effectiveness of governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions;
- (b) To report to the Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose; and
- (c) To publish an annual report on the work of the Committee.

### **Governance Arrangements**

- (a) Promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council;
- (b) Advising and assisting Parish Council(s) and Councillors to maintain high standards of conduct and to make recommendation to Parish Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- (f) Advising the Council upon the contents of, and requirements for, codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (g) Maintaining oversight of the Council's arrangements for dealing with complaints;

- (h) Informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (i) Granting exemptions to politically restricted posts;
- (j) To set the allowances and expenses of the Independent Person and Reserve Independent Person, in consultation with the Corporate Director (Finance);
- (k) To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council assessment criteria;
- (l) Hearing and determining complaints about Members and Co-opted Members referred to it by the Monitoring Officer;
- (m) To grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011;
- (n) Hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011;
- (o) To consider and report on any matter relating to the Councils; and
- (p) Functions not reserved to any other Scrutiny Committee.

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

The Governance and Audit Scrutiny Committee may establish one or more Standards Sub-Committees consisting of at least 3 Members drawn from the Membership of the Governance and Audit Scrutiny Committee and 3 substitute Members, not including more than 1 Member of the Cabinet.

Further to Minute 16a of the meeting of the Council held on 11 June 2012, the rules of political balance are not applied to the sub-committees.

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

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

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

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

## **9.7 The Scrutiny Chairman Committee**

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

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

## **9.8 Excluded Functions**

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

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

- (f) Matters relating to a particular identifiable service recipient or potential service recipient;
- (g) Complaints or matters before the courts or Local Government and Social Care Ombudsman; and
- (h) Contractual matters, other than performance monitoring and review, except with the agreement of the Cabinet.

## **Article 10 – Joint Arrangements**

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

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

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

### **10.2 Joint Arrangements**

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

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

Except as set out below, the Cabinet may only appoint Cabinet Members to a joint committee and those members need not reflect the political composition of the Council as a whole.

Where the joint committee has functions for only part of the District and that area is smaller than two-fifths by area or population, the Cabinet may appoint members to sit on the joint committee from outside the membership of Cabinet. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.

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

### **10.3 Access to information**

The Access to Information Procedure Rules in Chapter 2 of this Constitution apply. If all the members of a joint committee are Members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

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

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



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

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

The decision whether or not to accept a delegation from another Local Authority shall be reserved to the Council.

## **10.5 Contracting out**

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

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

### **11.1 Financial Management**

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

### **11.2 Contracts**

Every contract made by the Council shall:-

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

### **11.3 Legal Proceedings**

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

### **11.4 Authentication of Documents**

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

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

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

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

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

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

Monitoring Officer should be sealed.

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

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



## **Chapter 2**

### **The Procedure Rules**



## **12. Council Procedure Rules**

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

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

The Annual Meeting of the Council shall be held:

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

#### **Order of Business**

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

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

remainder of the municipal year.

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

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

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

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

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

In addition to the Annual Meeting of the Council and any meeting convened under paragraph 12.4, the Councils Ordinary Meetings shall be held each year on such dates, times and places as decided by Council at its Annual Meeting.

### **Order of Business**

Ordinary Meetings will conduct the following business:

- (a) Elect a person to preside over the meeting if the Chairman and the Vice Chairman are not present;
- (b) Receive any apologies for absence;
- (c) Receive any declarations of interest from Councillors;
- (d) Approve the minutes of the last meeting;
- (e) To deal with questions from members of the public in accordance with paragraph 12.11;
- (f) Receive any announcements from the Chairman and/or the Leader and/or the Chief Executive;
- (g) Deal with any business remaining from the last meeting;
- (h) Deal with any urgent items of business as agreed by the Chairman;
- (i) To receive a report on any petition required to be debated in accordance with the Council's Petition Policy;
- (j) To consider any Motions on notice;
- (k) Deal with the Medium-Term Financial Strategy, the setting of the Council Budget and Council Tax resolution;

- (l) To consider a report on any matters reserved to the Council;
- (m) To receive and consider any other reports, if any, as specified in the Agenda;
- (n) Consider any recommendations from the Cabinet, Council or their Committees that require a Council resolution;
- (o) Receive reports from the Leader and the Cabinet Members incorporating oral questions as permitted by these Council Procedure Rules; and
- (p) To deal with any business in private in accordance with the Access to Information Procedure Rules.

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

### **12.3 Extraordinary Meetings of Council**

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

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

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

#### **Order of Business**

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

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

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

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

No alterations to the dates or times of Ordinary Meetings of the Council shall take place, unless the Chairman, after consultation with the Chief



Executive and the Group Leaders, determines that it is necessary to either cancel a meeting or establish an alternative date or time. In such instances all Councillors will be notified by email, and notice of the changes will be on the Council's website.

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

## **12.5 Duration of Meetings**

No meeting shall last for more than 3 hours.

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

Where this Procedure Rule is suspended, the Council will deal with the remaining business in the order set out in the agenda or continue to sit for a specific period of time. In such circumstances, priority will be given to any item of business that the Council is legally obliged to consider at that meeting. Any business not concluded during the extended period will be considered at the next meeting of Council.

## **12.6 Chairing the Meeting**

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

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

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

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

## **12.7 Quorum**

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

If the Chairman considers the meeting to be inquorate the meeting shall stand deferred for 15 minutes. If there is still no quorum after 15 minutes,

then the meeting will be adjourned and the consideration of business will be held over to the next meeting.

## **12.8 Attendance**

All Members present during the whole or part of a meeting are required to sign their names on the attendance sheet before the conclusion of every meeting to assist with the record of attendance.

## **12.9 Documents**

### **Reports**

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

### **Background Papers**

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

### **Confidential Appendix**

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

## **12.10 Minutes**

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

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

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

## **12.11 Public Question Time**

At every meeting of the Council there shall be a period of up to 30 minutes to enable members of the public to ask questions on any matter in relation to which the Council has powers or duties or which affects the District. The Planning Committee, at the Chairman's discretion, may allow additional time to be allocated to public question time.

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

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

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

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

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

- (a) is not about a matter for which the Council has powers or duties;
- (b) is defamatory, frivolous, vexatious or offensive;
- (c) is substantially the same as a question put to a meeting in the previous 6 months;
- (d) will require the disclosure of Confidential or Exempt Information as defined in the Access to Information Procedure Rules; or
- (e) is already subject to separate appeal, adjudication, litigation, mediation or dispute resolution.

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

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

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

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

The Leader, relevant Cabinet Member or Chairman of the relevant Committee will respond to the question or statement orally or where a response cannot be provided at the meeting, a written response will be provided within 5 working days of the meeting.

No other Member shall be permitted to speak.

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

This rule does not allow Members of the Council to register as a public speaker.

### **12.12 Statements by the Leader**

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

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

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

The Leader and Cabinet Members will prepare reports comprising of a summary of business and news relevant to their respective portfolios, which has taken place since the last meeting of Council.

The Chairman will invite the Leader and the relevant Cabinet Members to introduce their respective reports and add any further information before inviting Councillors to ask questions as set out below:

- (a) Any Councillors may ask up to two questions, and the Leader of the Opposition may ask up to four questions, without notice which relate to the functions of the Leader or Cabinet Members, the powers and duties of the Council or matters pertaining to the District.
- (b) A period of up to 1 hour shall be allowed for this item on the agenda.
- (c) There is no opportunity for a Member to make further statement or to ask a supplementary question.

#### **Replies to Questions**

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

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

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

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

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

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

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

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

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

#### **12.15 Statements by Chairmen**

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

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

#### **12.16 Petitions**

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

#### **12.17 Motions**

##### **Scope**

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

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

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

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

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

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

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

A maximum of six Motions may be considered at any given meeting, any additional Motions shall be deferred to the next meeting of Council. These six Motions shall reflect the current political balance and accordingly shall be proportioned as follows:

- 3 Motions to the Conservatives;
- 2 Motions to the Green and Independent Group; and
- 1 Motion to the Labour and Halstead Residents Association.

### **Motions without Notice**

The following Motions may be moved without notice:-

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

Procedure Rules;

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

### **Rescinding a Preceding Resolution**

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

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

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

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

## **12.18 Rules of Debate**

### **Debate Etiquette**

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

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

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

Members will, when speaking, refrain from making comments of a personal nature about another Councillor.

Members will refrain from disrupting the meeting.

Whenever the Chairman speaks during a debate, any Members then standing

shall be seated and the Council shall be silent.

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

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

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

### **Number of Speeches**

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

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

## **12.19 Speeches by Proposer and Secunder**

### **The Proposer**

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

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

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

### **The Secunder**

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



## **Length of Speech or Statement**

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

### **12.20 Amendments to Motions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **12.22 Voting**

##### **General Provisions**

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

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

In the event of an equality of votes on either side, the Chairman of the

Council will have a second or casting vote.

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

### **Recording Votes**

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

### **Recorded Votes**

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

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

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

This provision cannot be suspended under paragraph 12.25.

## **12.23 Substitute Members**

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

A Substitute Member is appointed when a written substitution notice is received by the Governance Team no later than 1 hour before the start of the relevant meeting.

A substitution notice may be sent by:

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

The effect of a substitution notice is that the Member named in the notice shall cease to be a member of that committee for the duration of that meeting and the Substitute Member shall be a full member of the Committee for the same period.

A substitution notice may be revoked by the Member or the person who gave

it at any time preceding the deadline for the giving of a substitution notice.

Each political group shall annually appoint up to 3 Substitute Members to the Planning and Licensing Committees at the Councils Annual Meeting. Each Substitute Member shall undertake all required knowledge and training before they are permitted to participate as a Member of the relevant Committee.

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

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

## **12.24 General Disturbance**

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

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

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

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

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

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

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

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

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

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

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

## **13. Cabinet Procedure Rules**

### **13.1 Cabinet Meetings**

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

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

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

### **13.2 Quorum**

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

### **13.3 Attendance at Meetings**

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

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

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

### **13.4 Order of Business**

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

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

### **13.5 Taking Decisions**

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

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

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

### **13.6 Chairing the Meeting**

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

### **13.7 Conflicts of Interest**

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

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

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

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

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

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

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

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

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

### **13.9 Consultation**

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

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

### **13.10 Member Question Time**

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

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

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

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

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

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

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



### **13.11 Matters of Urgency**

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

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

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

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

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

This provision will not apply to a Key Decision. The Leader may only take an Urgent Key Decision if the provisions as set out in paragraph 15.17 of the Access to Information Procedure Rules have been followed.

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

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

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

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

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

#### **Publication**

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

#### **Consultation**

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

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

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

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

#### **Performance Management Scrutiny Committee**

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

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

#### **Cabinet**

Following which a report to Cabinet on the outcome of its deliberations will be prepared and submitted. The Performance Management Scrutiny Committee shall have at least four weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors

that make this timescale inappropriate. If it does, it will inform the Performance Management Scrutiny Committee of the time for response when the proposals are referred to it.

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

### **Council**

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

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

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

### **Leader Objection**

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

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

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

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

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

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

If the advice of either of those officers is that the decision would not be in line

with the existing Budget and Policy Framework; then that decision may only be taken by the Council, subject to paragraph 14.4 below.

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

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

Such an urgent decision may only be taken if;

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

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

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

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

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

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

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

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

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

The Cabinet must prepare a report:

- (a) to Council in the event that the Monitoring Officer and/or the s.151 Officer conclude that the decision was a departure, or
- (b) to the Performance Management Scrutiny Committee if the Monitoring Officer and/or the s.151 Officer conclude that the decision was not a departure.

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

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

The Council may either:

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

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

### **15.1 Introduction**

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

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

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

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

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

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

### **15.3 Notices of Meetings**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **15.6 Supply of Copies**

The Council will supply copies of:

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

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

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

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

### **15.7 Access to Minutes**

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

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

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

### **15.8 Background Papers**

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

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

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

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

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

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



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

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

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

#### **Requests from reporters**

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

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

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

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

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

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

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

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

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

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

## 15.11 Exclusion of Access by the Public to Meetings

### Confidential Information - requirement to exclude public

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

### Meaning of Confidential Information

Confidential Information means information:

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

### Exempt Information - discretion to exclude public

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

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

### Meaning of Exempt Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **15.15 Forward Plan**

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

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

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

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

### **Contents of Forward Plan**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **15.21 Records of Decisions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

### **Rights to copies**

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

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

### **Limit on rights**

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

- (a) any document that is in draft form;
- (b) any part of a document that contains Exempt or Confidential Information, unless that information is relevant to an action or decision they are

reviewing or scrutinising or intend to scrutinise; or  
(c) the advice of a political adviser.

## **16. Financial Procedure Rules**

### **16.1 Introduction**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Corporate Director (Finance) is responsible for:

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

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

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

relevant Corporate Director. The senior manager should report breaches of the Financial Procedure Rules to the Corporate Director (Finance) and the Monitoring Officer who will decide what, if any, further action needs to be taken.

The Financial limits are specified in Section 8. They will be reviewed and where appropriate revised by Council as necessary before the start of the financial year to which they relate as a part of the budget setting process.

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

### **16.3 Financial Management**

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

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

##### **The Council**

The Council is responsible for:

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

##### **The Cabinet**

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

##### **Cabinet Member for Finance and Corporate Transformation**

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

##### **Cabinet Members**

Cabinet Members are responsible for:

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

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

### **Performance Management Scrutiny Committee**

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

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

### **Governance and Audit Scrutiny Committee**

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

## **16.3.2 Officers**

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

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

### **The Monitoring Officer**

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

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

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

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

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

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

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

The S.151 Officer has responsibility for:

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

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

### **Corporate Directors**

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

### **Heads of Service**

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

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

### **Money Laundering Reporting Officer**

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

#### **16.3.3 Delegated Authority**

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



these Financial Procedure Rules. A record of all such authorities must be prepared and submitted to the Corporate Director (Finance) and the Head of Governance.

#### **16.3.4 Accounting Arrangements**

The Corporate Director (Finance) is responsible for keeping the accounts and financial records of the Council. They must also approve accounting and other systems with a financial function and accounting records of services.

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

No change to existing accounting procedures may be made without prior consultation with the Corporate Director (Finance).

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

The Corporate Director (Finance) must examine and certify where required any financial return to a Government Department or other body.

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

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

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

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

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

The accounts are subject to external audit, the objective of which is to provide assurance that the accounts have been prepared correctly, that proper accounting practices have been followed and that high quality

arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

### 16.3.7 Revenue Virements

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

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

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

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

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

**Table A**

Financial Limits	Virement to be approved by:				
	Heads of Service (notification to Head of Finance)	Corporate Director (Finance)	Cabinet Portfolio Member	Cabinet	Council
Up to £10,000	Y	Y	Y	Y	Y
£10,001-£25,000	Y (in consultation)	Y (in consultation)	Y	Y	Y

	with Corporate Director (Finance) and the relevant Corporate Director)	with the relevant Corporate Director)			
£25,001-£50,000			Y	Y	Y
£50,001- £100,000				Y	Y
Over £100,001					Y

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

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

Heads of Service will notify the Corporate Director (Finance) of all revenue virement decisions before the expenditure is committed.

### **16.3.8 Technical Virements**

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

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

### **16.3.9 Capital Virements**

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

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

- (a) The Corporate Director (Finance) in consultation with the relevant Corporate Director may make a virement of up to £50,000;
- (b) A Cabinet Portfolio Member, after consultation with the Corporate Director (Finance), may authorise a virement of up to £100,000 within their portfolio;
- (c) The Cabinet may make a virement of up to £250,000 following a written report by the relevant Chief Officer(s) and Corporate Director (Finance); and
- (d) The Council shall determine requests which fall outside of these criteria.

**Table B**

<b>Current Limits</b>	<b>Virement Corporate Director (Finance)</b>	<b>to be Cabinet Portfolio Member</b>	<b>approved Cabinet</b>	<b>by: Council</b>
Up to £50,000	Y (In consultation with the relevant Corporate Director)	Y	Y	Y
£50,001 to £100,000		Y	Y	Y
£100,001 to £250,000			Y	Y
Over £250,001				Y

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

### **16.3.10 Carry Forwards**

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

These are generally used where it is known that material budgeted expenditure will not be incurred until the next financial year, and will be allowed in accordance with guidelines issued by the Corporate Director (Finance).

Unspent balances will only be considered for carry forward where:

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

Other considerations which may support the case are:

- (a) The item is fully funded from a grant and the grant will be lost if the item is not carried forward

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

#### **16.3.11 Financial Training**

Heads of Service are responsible for ensuring that Officers receive appropriate training to undertake their financial responsibilities, in accordance with any standards set by the Corporate Director (Finance).

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

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

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

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

#### **16.4.1 Policy Framework**

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

These Frameworks allocates responsibilities as follows:

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

### **16.4.2 Business Plans**

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

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

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

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

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

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

Forward planning requires:

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

Managing the current budget requires:

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

### **16.4.4 Budget Format**

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

### **16.4.5 Revenue Budget Preparation**

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

The Corporate Director (Finance) is responsible for providing a budget strategy, timetable and guidance on the general format of the budget. The budget strategy will detail the Council's financial position taking account of central government criteria and medium term prospects where appropriate.

Heads of Service will:

- (a) prepare, in consultation with the relevant Cabinet Member and in accordance with the framework set down by the Corporate Director (Finance), an estimate of income and expenditure for the ensuing financial year within the spending targets set by the Cabinet.
- (b) when drawing up draft budgets, have regard to such matters as spending patterns and pressures revealed through the budget monitoring process; legal requirements; the Council's policies and objectives; initiatives already underway or committed
- (c) ensure that budget submissions are consistent with the Council's Corporate Objectives
- (d) consult with their Corporate Director to determine the likely financial implications of cross-cutting initiatives and other associated activities and ensure that any such implications are reflected in the draft revenue budgets and capital programme for the services under their control;
- (e) ensure that there are adequate explanations for changes to the budgets;
- (f) ensure that their proposals are robust and that they have identified all of the issues and provide assurance to the Corporate Director (Finance).

The Corporate Director (Finance) will:

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

A Council is legally obliged to set a balanced budget. Under section 25 of the Local Government Act 2003 the Corporate Director (Finance) is responsible for reporting to the Council on the robustness of estimates contained within

the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

The Corporate Director (Finance) is responsible for providing advice on the available funding options for the budget. This includes advice on central government and other external funding, options for borrowing, and any other opportunities including income generation.

#### **16.4.6 Budget Monitoring**

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

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

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

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

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

#### **16.4.7 Resource Allocation**

The Corporate Director (Finance) is responsible for developing and maintaining a resource allocation process that ensures that both capital and revenue expenditure plans take account of the Policy Framework and changing priorities within that.

It is the responsibility of Heads of Service to ensure that the revenue and capital budget estimates reflect agreed service plans, are in line with the



medium term financial strategy, the capital strategy and that they follow any guidance issued by the Cabinet. The guidance will take account of the following:

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

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

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

The Corporate Director (Finance) is responsible for:

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

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

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

New schemes or schemes with significant changes will only be considered following a report to the Corporate Director (Finance) from the Chief Officer with responsibility for the project, setting out:

- (a) a full description of the project;
- (b) justification, including its relative priority;

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

All new capital schemes require the submission of a project justification to the Cabinet. The Cabinet may amend, including deferral or deletion, any item included in the draft capital expenditure programme and, after any appropriate consultations, shall recommend a capital expenditure programme for approval by the Council. This programme shall comply with statutory requirements and be capable of being funded. The Council will consider schemes based on the recommendations of the Cabinet.

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

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

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

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

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

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

Where the current estimated cost of a capital scheme is greater than the amount provided for in the Capital Programme, then, prior to tenders being sought, the relevant Head of Service is to report to the appropriate Cabinet Member identifying the current estimated cost and the reason(s) for the excess. Progress shall be conditional on the Cabinet Member's approval and the identification of sufficient funding resources from within the Capital Programme, and that the revenue cost (where appropriate) can be contained

within the Revenue Budget. Where these requirements cannot be met, a report will be submitted to the Cabinet.

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

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

#### **16.4.9 Treasury Management, Prudential Code and Minimum Revenue Policy**

The Cabinet Member for Finance and Corporate Transformation, in conjunction with the Corporate Director (Finance), will propose an annual Treasury Management Strategy, a set of Prudential Indicators and a policy for making revenue provision for the repayment of debt (referred to as the 'Minimum Revenue Provision' policy) to the Council in advance of the start of the relevant financial year. These will be consistent with the Council's revenue budget and capital programme proposals.

These documents are required to comply with CIPFA's Codes of Practice on Treasury Management and the Prudential Framework for Capital Finance, relevant Regulations and with the Council's own Treasury Management Policy Statement and Treasury Management Practices; they will set the parameters within which investment and borrowing activity will be managed during the forthcoming financial year.

#### **16.4.10 Maintenance of Reserves**

It is the responsibility of the Corporate Director (Finance) to provide Cabinet with a written report on levels of reserves that are considered prudent. This advice to be based on an annual risk assessment of the Council.

#### **16.4.11 Medium-Term Financial Strategy (MTFS)**

The MTFS brings together the key assumptions about financing resources (including council tax, non-domestic rates and business rates retained) and spending pressures over the medium to longer term. This enables the Council to plan for financial risks and thus inform the setting of service financial targets for the annual revenue budget and capital payments guidelines. The Corporate Director (Finance) will ensure that reports are presented to Council, as part of the annual budget setting, upon the medium term budget prospects and the resource constraints set by the Government.

#### **16.4.12 Pay Policy Statement**

The pay policy statement will be prepared as required by law. At present it is required to set out the Council's policy on the level and elements of

remuneration for each Chief Officer, the remuneration of its lowest paid Officers, and the relationship between the remuneration of its Chief Officers and other officers. It is also required to address other specific aspects of Chief Officer remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

## **16.5 Risk Management and Internal Control**

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. Equally, internal controls are required to guard against risk.

### **16.5.1 Risk Management Responsibilities**

All organisations face risks to their people, property, finances, services, reputation and continued operations. Risk management is about systematically identifying and actively managing these risks. It is an integral part of good business practice and is essential to securing the Council's assets and to ensuring continued financial and organisational well-being.

Risk can be mitigated by:

- (a) transferring the risk to a third party, e.g. through insurance;
- (b) implementing additional controls to minimise the likelihood of the risk occurring and/or minimising its potential impact (e.g. through regular inspection and continuous monitoring of identified key risk areas);
- (c) establishing and regularly testing business continuity and disaster recovery procedures to deal with the consequences of events and minimise potential disruption;

The Chief Officers are responsible for promoting the Council's Risk Management Policy Statement.

The Corporate Director (Finance) is responsible for:

- (a) preparing and promoting the Council's Risk Management Policy Statement and developing risk management controls in conjunction with Heads of Service;
- (b) arranging and administering insurance cover; and
- (c) assisting the Council to put in place an appropriate control environment and effective internal controls.

Corporate Directors and their Heads of Service are responsible for:

- (a) ensuring that there are continuous reviews of risk within their service areas;
- (b) maintaining detailed risk registers and action plans, and maintaining business continuity plans

- (c) notifying the Corporate Director (Finance) of matters related to insurance requirements or claims;
- (d) managing processes to ensure that established controls are being adhered to and to evaluate their effectiveness;
- (e) reviewing controls in the light of changes affecting the Council and implementing new ones as necessary with guidance from the Corporate Director (Finance).

### **16.5.2 Insurance**

The Council maintains insurance cover to deal with the financial consequences of any incident which may give rise to a claim being made by/against the Council or result in financial cost or loss which may not otherwise be provided for.

The Corporate Director (Finance) is responsible for effecting corporate insurance cover, through external insurance, and negotiating all claims in consultation with Officers as required, and will arrange suitable Fidelity Guarantee insurance in respect of all employees. All settlements will be in accordance with the financial limits set out in Chapter 4.

Heads of Service should notify the Corporate Director (Finance) immediately of:

- (a) Any loss, liability or damage that may lead to a claim being made by/against the Council. Heads of Service should ensure that Officers, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim. It is imperative that Officers comply with the timescales for investigating claims and the insurer's conditions. Failure could directly affect the Council's ability to make or defend a claim or could result in financial penalties being imposed on the authority;
- (b) All new risks, properties or vehicles that may require insurance, and of any alterations or disposals affecting existing insurances.

Heads of Service will ensure that the Corporate Director (Finance) has prompt access to all records and documents and receives from any Officer, agent or contractor such information and explanations as may be necessary during the conduct of an insurance claim.

Heads of Service should consult the Corporate Director (Finance) and seek legal advice on the terms of any indemnity that the Council is requested to give.

### **16.5.3 Internal Control**

Internal control refers to the systems devised by management to guard against risk and promote achievement of objectives. More specifically, internal controls promote:

- (a) achievement of business objectives and performance standards;
- (b) compliance with plans, policies, procedures, codes of conduct, laws and regulations;
- (c) the reliability, integrity, timeliness and usefulness of information;
- (d) the legality of transactions and compliance with approved budgets and procedures;
- (e) the safeguarding of people, property, finances, services, continued operations and reputation.

Internal controls are an essential part of the Council's risk management arrangements and should be reviewed on a regular basis. Control systems should provide for clarity of policies, objectives, targets, responsibilities and accountabilities, and appropriate authorisations and approvals, separation of duties, level of internal check, management information and physical safeguards.

The Corporate Director (Finance) is responsible for assisting the Council in putting in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with all applicable statutes, regulations and codes of practice.

The Account and Audit Regulations 2015 require the publication of an Annual Governance Statement. The statement represents the Council annual review of its internal controls and risk management, and includes a description and evaluation of the internal control environment, the review process, and any significant issues. The Governance and Audit Scrutiny Committee are responsible for internal controls should seek to satisfy itself that it has obtained sufficient, relevant and reliable evidence to support the disclosures made. Following approval the Annual Governance Statement shall be signed by the Chief Executive and the Leader, before publication on the Council's website.

#### **16.5.4 Internal Audit**

Internal audit is an independent appraisal function that advises management on the effectiveness of their systems of internal control.

The key features of internal audit are:

- (a) it is independent of service operations in its planning and operation;
- (b) it has sufficient organisational status to facilitate effective discussion and negotiation of the results of its work;
- (c) it utilises risk based methodologies in planning and delivering its work and does not have undue limitations placed on its scope;

- (c) the Audit, Insurance and Fraud Manager has direct access to senior managers, elected members and the external auditor as appropriate;
- (d) Internal auditors comply with guidance issued by professional bodies.

Each Chief Officer and Head of Service must immediately notify the Corporate Director (Finance) and Monitoring Officer of any matter which involves or is thought to involve any financial irregularity or impropriety in the exercise of the functions of the Council and take all necessary steps to prevent further loss and to secure records and documents against removal or alteration.

The Corporate Director (Finance) shall carry out such audit investigations as they consider necessary, in consultation with the Chairman of the Governance and Audit Scrutiny Committee, Leader and the relevant Cabinet Member.

Corporate Directors and Heads of Service must ensure the full cooperation of senior management in any investigation and instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

### **Internal Auditors**

The Councils Internal auditors have the authority to:

- (a) access Council premises at reasonable times;
- (b) access all assets, records, documents, correspondence and control systems;
- (c) receive any information and explanation considered necessary concerning any matter under consideration;
- (d) require any Officer to account for cash, stores or any other Council asset under their control;
- (e) access records belonging to third parties, such as contractors, when required (note that contracts should specify access rights);
- (f) Directly access the senior managers and elected members where appropriate.

### **The Audit, Insurance and Fraud Manager**

The Audit, Insurance and Fraud Manager will:

- (a) maintain arrangements for an adequate and effective internal audit of the financial transactions of the Council; and
- (b) ensure that the strategic and annual audit plans take account of the characteristics and relative risks of the activities involved.

Corporate Directors and Heads of Service are required to notify the Audit, Insurance and Fraud Manager of new areas of risk which may need to be subject to audit review and ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets and are provided with information and explanations that the auditors consider necessary for the purposes of their work.

Corporate Directors and Heads of Service are also required to consider and respond promptly to recommendations in audit reports, ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the agreed timescale and report on progress.

#### **16.5.5 External Audit**

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. Duties are carried out in accordance with the code of audit practice issued by the Audit Commission (the Code). This requires the external auditor to review and report upon:

- (a) the Council's Accounts;
- (b) whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources (value for money conclusion).

The Council's external Auditor shall be appointed in accordance with the Procurement Procedure Rules.

The Corporate Director (Finance) facilitates the development of the annual audit plan, leads on any negotiations related to the annual audit fee and advises the Cabinet, Corporate Directors and Heads of Service on their responsibilities in relation to external audit and issues arising from the Annual Audit Letter.

Corporate Directors and Heads of Service are required to ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets, and provided with information and explanations which the external auditors consider necessary for the purposes of their work.

Corporate Directors and Heads of Service are also required to consider and respond promptly to recommendations in audit reports, ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the timescale agreed with the external auditor, and report on progress.

#### **16.5.6 Preventing Fraud and Corruption**

The Council is responsible for substantial public funds and other assets and has a duty to demonstrate the highest standards of probity and stewardship in the day to day management of its affairs. It is therefore essential to



develop and maintain an anti-fraud culture and to create a working climate in which all staff and elected members remain alert to the potential for fraudulent or corrupt behaviour against the Council from outside or inside the organisation and are aware of the mechanisms available for the confidential reporting and investigation of any reported instances.

Responsibility for the prevention and detection of fraud and corruption rests with all Members and Officers. The key controls regarding the prevention of financial irregularities are that:

- (a) the Council has an effective Anti-Fraud, Corruption and Dishonesty Policy, which shall be prepared by the Corporate Director (Finance) and maintains a culture that will not tolerate fraud or corruption;
- (b) internal control systems exist which minimise the risk of fraud and corruption occurring;
- (c) all Members and Officers act with integrity and lead by example;
- (d) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are found to be corrupt;
- (e) high standards of conduct are promoted amongst Members;
- (f) a formal code of conduct is established and widely publicised and, as part of this, a register of interests is maintained;
- (g) whistleblowing procedures and prevention of money laundering procedures are in place and operate effectively;
- (h) Legislation including the Public Interest Disclosure Act 1998 and the Freedom of Information Act is adhered to.

The Audit, Insurance and Fraud Manager is responsible for ensuring that effective procedures are in place to identify fraud and investigate promptly any suspected fraud, including cases of both internal fraud and external fraud.

#### **16.5.7 Money Laundering**

Money laundering involves the 'cleaning' of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, are introduced into the financial system where they are laundered enabling them to leave the system appearing to come from a legitimate source.

The Council could be subject to money laundering attempts when accepting payments by cash in relation to the payment of substantial bills.

The Corporate Director (Finance) is required to have a robust process in place and a programme of awareness raising and training for the detection of money laundering and the reporting of any suspicious related activity.

All Officers have a duty to report any suspicions to the Money Laundering Reporting Officer.

## **16.6 Property and Resources**

The Council shall have in place adequate arrangements for the disposal and management of its assets.

### **16.6.1 Security and Control of Assets**

The Corporate Director (Finance) shall:

- (a) make adequate arrangements to maintain an asset register of all Council owned assets with a value in excess of £10,000 and ensure that where required, all assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, or such standards as may supersede it; and
- (b) issue guidelines for the disposal of assets: the land disposal procedure is contained within the Code of Governance.

Corporate Directors and Heads of Service must ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Heads of Service are responsible for ensuring that all assets in their control are appropriately maintained and shall:

- (a) make adequate arrangements to maintain a property database in a form agreed with the Corporate Director (Finance) for all properties, plant and machinery and moveable assets;
- (b) ensure the security of all buildings and other assets, including cash, under their control;
- (c) maintain inventories in a form determined by the Corporate Director (Finance);
- (d) make arrangements with the Audit, Insurance and Fraud Manager to ensure that all items are appropriately insured against loss.

All Council assets should be clearly identified and marked as property of the Council where appropriate. No Council asset should be subject to personal use by an Officer without prior authorisation by the relevant Corporate Director.

### **16.6.2 Property Transactions**

In the course of its day to day business, the Council enters into a variety of property agreements, including (but not limited to):

- (a) Freehold acquisitions and disposals;

- (b) Long leasehold acquisitions and disposals;
- (c) Short leases as tenant and as landlord;
- (d) Entering into section 106 agreements as landowner;
- (e) Release of covenants;
- (f) Compulsory acquisitions and land compensation claims;
- (g) Taking and granting easements;
- (h) Option Agreements; and
- (i) Lease surrenders and exit agreements (including dilapidations).

Each of these transactions has a financial consequence for the Council. Approval is therefore required to authorise such property transactions for completion, and to declare properties surplus to the Council's requirements, as follows:

- (a) Heads of Service following consultation with the relevant Corporate Director for a transaction value less than £100,000;
- (b) Cabinet Member for Finance and Corporate Transformation for a transaction value in excess of £100,000 but less than £150,000; and
- (c) Cabinet for transaction a value in excess of £150,000.

Once land and buildings have been declared surplus to requirements, the Corporate Director (Growth) will arrange for the disposal of these assets in accordance with the Council's Land Disposal Procedure and only then when it is in the best interests of the Council and when best value is obtained.

The approval of the Cabinet Member for Finance and Corporate Transformation must be obtained if it is proposed to dispose of the freehold (or a leasehold interest with at least seven years unexpired) in the whole of the Council's interest in a property at a value which is below market value and/or the book value in the previous year's Balance Sheet.

The approval of the Cabinet Member for Finance and Corporate Transformation must also be obtained if the amount to be realised from the sale of part of an asset will reduce the book value of the remaining asset by more than is being realised. The proceeds from the sale of all land and buildings (subject to certain statutory limitations) will not be earmarked for use by a specific service, but will be pooled and applied to finance future capital investment or for any other purpose permitted by Regulation.

### **16.6.3 Disposal of Other Assets**

From time to time there is a need to dispose of other assets owned by the Council that are not Property Assets. In these situations the below approval is required:

- (a) Heads of Service may:
  - (i) dispose of non-property assets through sale, donation or scrapping up to a value of £10,000. They must assure themselves that the assets concerned are the property of the Council (rather than a leasing company) before disposing of them; and
  - (ii) ensure that value for money is obtained for every disposal and maintain adequate records demonstrating value for money, the reasons for the disposal, and that the assets are obsolete or surplus to requirements.
- (b) Assets to be disposed of, with a value of between £10,000 and £100,000 must be agreed with the appropriate Corporate Director,
- (c) Assets to be disposed of, with a value of between £100,000 and £150,000 must be agreed with the appropriate Cabinet Member, and
- (d) Assets to be disposed of with a value of over £150,000 must be agreed by the Cabinet.

In all instances, any legal and environmental issues must be addressed when disposing any assets and advice from the Head of Governance on the appropriate method of disposal should be taken.

#### **16.6.4 Leasing**

The Corporate Director (Finance) shall be responsible for the evaluation and arrangement of all leasing (or similar) facilities. This excludes the short term hiring of equipment for periods of less than 12 months.

All leasing arrangements shall be entered into by the Head of Governance after consultation with the Corporate Director (Finance), subject to Procurement Procedure Rules.

#### **16.6.5 Inventories**

Heads of Service are responsible for:

- (a) ensuring that stocks of goods and materials are held at a level appropriate to the business needs of the Council, and that stock levels are checked regularly and as a minimum as part of year end annual stocktake procedures;
- (b) ensuring that adequate arrangements are in place for their care and custody;
- (c) writing-off the value of obsolete stock in their service areas is in accordance with these procedures.

#### **16.6.6 Treasury Management**

Treasury management is an important aspect of the overall financial management of the Council. Treasury management activities are those associated with the management of the Council's cash flows and its borrowing and investments. A fundamental aim is to effectively control the

risks associated with these activities and to pursue best value, in so far as that is consistent with the effective management of risk.

The Council complies with the CIPFA Treasury Management in the Public Services: Code of Practice and Cross-sectoral Guidance Notes, and has approved:

- (a) a Treasury Management Policy Statement, which sets out the policies and objectives of its treasury management activities; and
- (b) a series of treasury management practices (TMP's) which set out the manner in which the Council will seek to achieve its policies and objectives for treasury management.

The Corporate Director (Finance) is responsible for reporting to the Governance and Audit Scrutiny Committee, who will be responsible for reporting to Council at least three times each financial year on the activities of the treasury management operation and on the exercise of their delegated treasury management powers, including:

- (a) a proposed treasury management strategy for the coming financial year before the start of each financial year;
- (b) a mid-year report.
- (c) an annual report on the treasury management activity following the end of the financial year

All investments of money, and borrowings undertaken, on behalf of the Council will be made in the name of the Council. The Corporate Director (Finance) will maintain records of such transactions.

#### **16.6.7 Staffing**

Heads of Service will ensure the sufficiency of employee budgets and shall exercise adequate control over staffing costs including overtime, training and temporary staff.

Accurate and effective systems must be in place and the following procedures and regulations must be followed:

- (a) appointments are made in accordance with HR and payroll regulations;
- (b) appointments are in accordance with the approved establishment and grade for the post;
- (c) Payments are only authorised to bona fide employees and where there is a valid Entitlement;
- (d) costs associated with early retirements, redundancy payments and other similar events must be met from within the employee budget of the service involved unless there exists a specific corporate provision for this purpose.

### **16.6.8 Use of Consultants**

Corporate Directors and Heads of Service must ensure that their Officers understand the distinction between employment and a contract for consultancy services. If a consultant is brought in to cover a vacant post or carry out a role similar to that of a member of staff then it is likely that the Council will be required to treat them as employed for tax purposes and pay them via the payroll. In these circumstances the Council's recruitment policies should be applied.

Where a consultant is required to carry out a project which has a clear start and end date and is described in a brief or specification, and where the consultant will be taking on the risk and providing their own premises, equipment and insurance etc., then it is likely that the work will be governed by a contract and the consultant will be paid via the Accounts Payable system through the raising of an official order and goods receipt. In these circumstances the Procurement Procedure Rules should be applied. The insurance requirements must be clear in the documentation supporting the contract and evidence that the policy is in place should be obtained from the consultant.

Corporate Directors and Heads of Service must ensure that where payments are to be made to consultants other than through the Council's payroll system, that there is a clear justification for this and that there are no tax implications that may arise.

Corporate Directors and Heads of Service should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Human Resources Manager.

## **16.7 Financial Systems and Procedures**

The following paragraphs set out the Councils routine financial business, its transactions and procedures.

### **16.7.1 General Responsibilities**

The Corporate Director (Finance) is responsible for:

- (a) issuing advice, guidance and procedures for officers and others acting on behalf of the Council in relation to its financial affairs;
- (b) determining the accounting system, form of accounts and supporting financial records;
- (c) establishing arrangements for the audit of the Council's financial affairs;
- (d) approving any new financial systems to be introduced;

- (e) approving any changes to existing financial systems including the format of a feeder file and system of reconciliation of any financial information being fed into the core accounting systems.

Corporate Directors and Heads of Service are responsible for:

- (a) ensuring that accounting records are properly maintained and are held securely;
- (b) maintaining a complete management trail for financial transactions;
- (c) ensuring that there is sufficient separation of duties to provide adequate internal control and minimise the risk of fraud or other malpractice;
- (d) maintaining documented and tested business continuity plans; and
- (e) documenting systems and procedures and ensuring staff are trained in operations.

### **16.7.2 Income**

The Council collects substantial amounts of income (council tax, business rates, rents, service charges and fees and charges) and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly, and that VAT is correctly accounted for.

The Corporate Director (Finance) will agree the arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection. In relation to the collection of income, the Corporate Director (Finance) and Corporate Directors will ensure that:

- (a) All money received by, or on behalf of, the Council is paid fully and promptly into the appropriate Council bank account in the form in which it is received.
- (b) Income is not used to cash personal cheques or other payments.
- (c) Appropriate details are recorded onto paying-in slips to provide an audit trail.
- (d) A record is kept of money received directly by employees of the Council.
- (e) The receiving officer signs for the transfer of funds, and the transferor must retain a copy.
- (f) Wherever possible, at least two employees are present when post is opened so that money received by post is properly identified and recorded; this requirement must be met where post regularly contains money.
- (g) Money collected and deposited is reconciled to the appropriate bank account on a regular basis.
- (h) The responsibility for cash collection is separated from that for identifying the amount due and that responsibility for reconciling the amount due is separated from handling of the amount received.

- (i) Income is only held on premises up to levels approved by the Corporate Director (Finance). All such income will be locked away to safeguard against loss or theft, and to ensure the security of cash handling.
- (j) All appropriate income documents are retained and stored for the defined period in accordance with the Council's Information Management policies and guidance.

### **16.7.3 Debt Recovery**

Amounts owed to the Council will be recorded by billing the customer in accordance with the Council's Income Management framework. Corporate Directors and Heads of Service will ensure that a clear framework is in place within their service areas which defines who is empowered to raise a debt on the Council's behalf. Once debts are raised, Corporate Directors and Heads of Service have a responsibility to assist the Corporate Director (Finance) in collecting the debts that they have originated by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.

### **16.7.4 Writing-off Debts**

Corporate Directors and Heads of Service will critically review outstanding debts on a regular basis, in conjunction with the Corporate Director (Finance), and take prompt action to write off debts no longer deemed to be recoverable. No bona fide debt may be cancelled, other than by formal write off.

The Corporate Director (Finance) shall:

- (a) authorise the write-off of individual bad debts up to £25,000 where necessary. All requests for write off must be accompanied by a brief report giving the reasons for the request and supporting documentation. The relevant Cabinet Member shall authorise the write-off of individual bad debts over £25,000 but under £50,000; Cabinet shall authorise the write-off of individual bad debts over £50,000 but under £100,000; and Council shall authorise the write-off of individual bad debts £100,000 and over;
- (b) The exception to the above authorisation requirements is that the Corporate Director (Finance) has delegated authority to write-off debts for reason of bankruptcy, insolvency and ceased trading without limit;
- (c) ensure that a proper record of debts written-off is maintained and that proper accounting entries are made after write-off.

Chief Officers shall submit a request to write off a debt and materials surplus to a department's requirements, subject to the limits and approvals prescribed below. The Corporate Director (Finance) shall issue procedures for the authorisation and recording of the debts to be written off.



**Table C**

	Write-off	to be	approved	by:
Current Limits	Corporate Director (Finance)	Cabinet Portfolio Member	Cabinet	Council
Up to £25,000	Y	Y	Y	Y
£25,001 to £50,000		Y	Y	Y
£50,001 to £100,000			Y	Y
Over £100,001				Y

**16.7.5 Credit Notes**

A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, and once it is confirmed that the debt is not payable.

Credit notes will not be issued:

- (a) For irrecoverable debts, as the formal write off procedure should be followed.
- (b) Where the debtor cannot afford to pay at that time. The debt should remain, and revised payment terms agreed, as appropriate.
- (c) Where a debt is to be recovered through deductions from payments. In such instances, the deductions made should be offset against the debtor.

Credit notes will be subject to the approval of a Corporate Director or Head of Service.

**16.7.6 Ordering and Paying for Goods and Services**

The Council's procedures are designed to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Procurement Strategy and Procurement Procedure Rules.

Every Officer and Member must declare any links or personal interests that they may have with suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with Member Code of Conduct and HR Policies.

Purchase Orders must be raised on the eProcurement System for all works, goods and services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates and petty cash purchases.

Commitments and accruals will be automatically recorded onto the Council's Financial System through the approval of the purchase order. This ensures that the finance system gives a true picture of the amount of expenditure incurred and the balance remaining against each budget head.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

The Corporate Director (Finance) shall:

- (a) ensure that all systems for the ordering and payment of goods and services are sound and provide guidance on their administration;
- (b) determine the form of official orders and associated terms and conditions;
- (c) make payments from the Council's official funds on the authorisation of the relevant Corporate Director or Head of Service that the expenditure has been duly incurred in accordance with Financial Procedure Rules;
- (d) make payments to contractors on the certificate of the appropriate Corporate Director or Head of Service.

Corporate Directors and Heads of Service shall:

- (a) ensure the receipt of best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality and by utilising corporate purchasing arrangements where they exist;
- (b) establish and maintain sound and efficient systems for the ordering, receipt, checking and payment of goods and services in a form approved by the Corporate Director (Finance) and which incorporate, as far as possible, separation of duties between the ordering, receiving and payment process;
- (c) maintain an up-to date list of those officers authorised to authorise official orders and/or authorise payment and supply a copy of the list to the Corporate Director (Finance). The list is to clearly show the financial limits of authority which apply to each officer together with specimen signatures and initials.
- (d) ensure that official orders are used for all goods and services except where the prior written approval of the Corporate Director (Finance) has been obtained;
- (e) Ensure that services provided or goods received in part of fully in accordance with an official purchase order are recorded in the eProcurement system by means of entering a Goods Received Notice transaction; and
- (f) ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment.

Orders for work, goods and services must be authorised in accordance with the Procurement Procedure Rules and processes put in place as part of its financial management systems.

### **Expenditure**

Expenditure for work, goods and services must be authorised in accordance with the Council's Constitution and by someone of at least the seniority set out below:

- (a) Where the expenditure is issued to reflect a procurement decision taken by Members then the expenditure may be authorised by the officer with delegated authority;
- (b) An expenditure up to £50,000 may be authorised by the Head of Service;
- (c) An expenditure between £50,000 and £100,000 must be authorised by the relevant Corporate Director;
- (d) Where the expenditure will have effect for more than a year and/or have a value of between £100,000 and £150,000, then the expenditure must be authorised by the relevant Cabinet Member; or
- (e) In other cases the expenditure must be authorised by Council.

#### **16.7.7 Imprest and Petty Cash Accounts**

An imprest or petty cash account must only be used where it is not appropriate to use a purchase order for the goods or services in question. It is the responsibility of Corporate Directors and Heads of Service to ensure that systems are in place to monitor and control this.

Imprest and petty cash accounts can facilitate very minor items of expenditure where it would not be cost effective to use a purchase order. Imprest and petty cash accounts must not be used to reimburse employee expenses which will be made through Payroll.

The Council has a single petty cash account operated by Cashiers Service. There are a number of imprest holders across the Council. The establishment of and procedures for the operation of imprest accounts must be approved by the Corporate Director (Finance).

Officers must complete an official petty cash voucher to draw cash from petty cash or an imprest account. Supporting documentation must be attached including VAT receipts and the voucher should be authorised to confirm that the expenditure is reasonable and there is sufficient budget provision to cover the expenditure.

Imprest holders must reconcile their accounts on a monthly basis or prior to seeking reimbursement. Imprest holders should seek reimbursement from the main petty cash account through Cashiers Service using the standard

documentation and attaching supporting information. A certificate of value must be completed once a year and the cash/receipts must be produced on demand.

Imprest accounts must never be used to cash personal cheques or to make personal loans and the only payments into the account should be the reimbursement of the float and change relating to purchases where an advance may have been made on an exceptional basis.

#### **16.7.8 Bank Accounts**

The Corporate Director (Finance) shall maintain and operate such bank accounts as they considers necessary. No bank account may be opened or closed except on the prior approval of the Corporate Director (Finance).

The Head of Finance is responsible for managing the banking contract and the day to day administration and reconciliation of accounts.

Officers must not open accounts in the name of the Council, Members or Officers unless they are acting on the instructions of the Corporate Director (Finance). Opening an unauthorised bank account is a disciplinary offence.

#### **16.7.9 Payments to Councillors and Employees**

Staff costs are the largest item of expenditure for most services. It is therefore important that payments are accurate, timely, and made only where they are due for services to the Council, and that payments accord with an individual's conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

The Corporate Director (Finance) is responsible for all payments of salaries and wages and expenses to staff, including payments for overtime, honoraria etc. and submission of tax returns to HM Revenue and Customs by their due date for the above. The Corporate Director (Finance) is also responsible for the timely provision of information, and the maintenance of sound financial controls to meet the responsibilities in connection with taxation issues arising from payments to employees.

The Corporate Director (Finance) shall:

- (a) arrange and control secure and reliable payment of salaries, wages, compensation, other emoluments, expenses and allowances;
- (b) record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions to the collecting authority;
- (c) ensure provision of accounting records of all transactions.

Corporate Directors and Heads of Service shall:

- (a) ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scales of pay and that budget provision is available;
- (b) promptly notify the Human Resources Manager of all appointments, terminations or variations which may affect the pay of an employee, in the form determined by the Human Resources Manager;
- (c) maintain an up-to date list of those officers authorised to sign records and returns relating to payments to employees and Councillors and supply a copy of the list to the Human Resources Manager and the Corporate Director (Finance). The list is to clearly show the financial limits of authority which apply to each officer together with specimen signatures and initials;
- (d) ensure that all payments to employees and Councillors, including all casual and temporary staff, are processed only through the payroll system.

#### **16.7.10 Taxation**

The Corporate Director (Finance) is responsible for providing information to HMRC in relation to the Construction Industry Tax Deduction Scheme as required and advising Corporate Directors and Heads of Service of their responsibilities under the scheme.

Corporate Directors and Heads of Service are responsible for ensuring that the appropriate controls and procedures are operated within the service area in relation to taxation issues.

The Corporate Director (Finance) is responsible for completing the monthly return of VAT (inputs and outputs) to HMRC.

#### **16.7.11 Trading Accounts and Business Units**

In some areas the Council may operate a trading account. This means that the costs and income from charges relating to the service are ring-fenced in the accounts. Any surplus or deficit is added to a reserve each year. The Corporate Director (Finance) is responsible for ensuring that trading accounts are treated properly in the Council's accounts.

Corporate Directors and Heads of Service are responsible for ensuring that, in line with the Local Government Act 2003, charges are set to recover costs without building up significant surpluses, and that any changes in take up of the service which could result in a deficit are reported at an early stage. All charges must be reviewed on a regular basis and annually as a minimum as part of integrated service and financial planning

The Corporate Director (Finance) shall determine the need for the establishment and operation of trading accounts and business units.

#### **16.7.12 Retention of Documents**

Corporate Directors and Heads of Service shall be responsible for ensuring that records are carefully and systematically filed and retained for inspection by the Monitoring Officer, Corporate Director (Finance) or internal or external audit and agencies such as HM Revenue and Customs.

The advised minimum periods for the retention of financial records are set out below:

- (a) mortgages, bonds, stocks and other holdings, insurance, contracts, pension information and transfer values should be held indefinitely;
- (b) other contract documents including the final account where the contract is under seal should be retained for 12 years; and
- (c) The majority of accounting records should be retained for a period of 6 years following audit.

## **16.8 Partnerships and External Funding**

Partnerships are likely to play a key role in delivering community strategies and helping to promote and improve the wellbeing of the area.

### **16.8.1 Partnerships**

The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of the District.

The Cabinet is responsible for approving delegations, including frameworks for partnerships.

The Corporate Director (Finance) must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are proper. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

Corporate Directors and Heads of Service must ensure that the full implications of any partnership are explored and that Finance and Legal officers are consulted at an early stage. The issues to be addressed include:

- (a) Is a partnership the best vehicle for achieving the desired outcome?
- (b) What are the objectives of the partnership and are they consistent with the Council's priorities?
- (c) What is the legal status of the partnership and how will it be governed?
- (d) What is the liability of the Council and the other partners?
- (e) Are the roles and responsibilities clear?

- (f) What are the risks and how will they be managed and monitored?
- (g) How will the performance of the partnership be monitored and how will success be measured?
- (h) How will the partnership be funded and who is responsible for the financial management, accounts and audit arrangements?
- (i) Are there any taxation issues?
- (j) Is there a robust business case?
- (k) How will goods and services required by the partnership be procured?
- (l) What are the resource implications in terms of staff, premises etc.?

Corporate Directors and Heads of Service are responsible for securing all appropriate approvals before any commitment or agreement is entered into.

A partnership arrangement must not be used as a means of avoiding the procurement rules.

#### **16.8.2 External Funding**

The Council bids for funds from a number of UK and European programmes. Each funding regime is subject to rules and regulations and the process for submitting applications and drawing down funding varies.

It is important to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Council are clearly understood. Corporate Directors and Heads of Service should:

- (a) ensure that all applications for funding are consistent with the Council's priorities and approve them in principle before detailed work commences;
- (b) ensure that the Council's project management framework is applied and that a project initiation document (PID) is completed where appropriate;
- (c) consult with Financial Services when preparing applications to ensure that full costs are identified including any match funding required, and ongoing commitments are taken into account;
- (d) ensure that the application is signed off by the Corporate Director (Finance) or an appropriate Officer in the Service;
- (e) where applications are successful, ensure that the expenditure and income budgets are amended as necessary;
- (f) Where third party funding is received, all decisions relating to its expenditure shall be taken in accordance with the expenditure thresholds set out in these Financial Procedure Rules and the Constitution,

- (g) ensure that the rules and regulations for the particular funding stream are complied with at application stage and throughout the life of the project;
- (h) ensure that all requirements relating to the delivery of outputs and spend are met in line with the approved bid or project plan;
- (i) ensure that all funding notified by external bodies is claimed, received and properly recorded in the Council 's accounts; and
- (j) check the audit requirements and notify the Corporate Director (Finance) of any claims that must be audited by the Council's external auditor.

### **16.8.3 Work for Third Parties**

Corporate Directors and Heads of Service must ensure that work undertaken for third parties is approved by Cabinet and is covered by a suitable contract or agreement so that the responsibilities of each party are clear.

Financial and legal advice should be sought at an early stage. This will ensure that the Council only carries out work that is within its legal powers, and that financial issues such as insurance and taxation are properly considered.

Corporate Directors and Heads of Service must ensure that:

- (a) the Council is not put at unnecessary risk from bad debts
- (b) contracts are not subsidised by the Council

Corporate Directors and Heads of Service must provide appropriate information to the Corporate Director (Finance) to enable a note to be entered into the Statement of Accounts where necessary.



## **17. Overview and Scrutiny Procedure Rules**

### **17.1 Introduction**

Overview and Scrutiny arrangement play an important role in securing the efficient delivery of public services and drives improvements within the Council. Through the legislative powers the Scrutiny Committee are responsible for scrutinising decisions the Cabinet is planning to take and those that it has already taken, thereby holding the Cabinet to account for its decisions and its actions. The Scrutiny Committees carry out the scrutiny function on behalf of the Council.

### **17.2 The Scrutiny Arrangements**

The Council will have in place the Scrutiny arrangements as set out in Article 9 of this Constitution. The Scrutiny Committees may appoint sub-committees usually known as Task and Finish Groups, and establish their membership, reference to the Scrutiny Committee will (unless otherwise stated) include reference to the Task and Finish Group. The Scrutiny Committee may be appointed for a fixed period or to undertake a specific task, on the expiry of which they shall cease to exist.

### **17.3 Meetings of the Scrutiny Committees**

In addition to the Ordinary meetings scheduled at the start of the municipal year, Extraordinary meetings may be called from time to time as and when appropriate. Extraordinary meetings may be called by:

- (a) the Chairmen of the relevant Scrutiny Committee;
- (b) any 5 members of the relevant Scrutiny Committee or
- (c) the proper officer if they consider it necessary or appropriate.

### **17.4 Membership**

All Members are eligible to be members of a Scrutiny Committee, subject to the number of places available and the political proportionality rules.

No Member may be involved in scrutinising a decision in which they have been directly involved in making.

Cabinet Members are not entitled to be a member of a Scrutiny Committee or its Task and Finish Group.

A Deputy Cabinet Member may not be involved in scrutinising a decision undertaken by that Cabinet Member.

The Task and Finish Group may consist of any Councillors of the Council, subject to paragraph 17.4, who are not a member of the Scrutiny

Committee and will hold voting rights on any question which falls to be determined at the meeting of the Task and Finish Group.

Substitutes will be permitted provided they are in accordance with the provisions set out above and the Council Procedure Rules, and should wherever possible be named for the duration of the review being undertaken by the Scrutiny Committee.

### **17.5 Co-opted Members**

The Scrutiny Committees shall be entitled to recommend to the Council the appointment of additional third party individuals who are not Members of the Council, as a result of their expertise they will bring to the Scrutiny Committee in the consideration of their review. Such individuals will be known as 'Co-opted Members' and will be entitled to participate in the review but will not hold voting rights on any question which falls to be determined at a meeting of the Scrutiny Committee.

### **17.6 Chairman**

The Chairman of each of the Scrutiny Committees will be appointed at the Annual Meeting of the Council.

The Chairman of the Performance Management Scrutiny Committee should not be a member of the Majority Group, unless there are no such other persons available.

The vice-Chairman shall be selected from the Scrutiny Committee membership.

### **17.7 Work programme**

The Scrutiny Committees will be responsible for setting their own work programme which exercises the functions as conferred by section 21 of the Local Government Act 2000 and set out in Article 9 of this Constitution.

In doing so they shall review the suggestions provided as part of the annual call for topics, and will take into account the views of the Chief Officers.

The work programme shall be considered by the Scrutiny Chairman Committee in order to coordinate the work undertaken by each of the Scrutiny Committees. They may consult Group Leaders, the Cabinet, any Member and any other person or group they consider relevant to inform their considerations.

### **17.8 Agenda Items**

Any member of the Scrutiny Committee shall be entitled to give notice to the Head of Governance that they wish an item relevant to the functions of the Scrutiny Committee to be included on the agenda for the next available meeting of the Scrutiny Committee. Where such a request has been

received on later than midday seven working days before the meeting the Head of Governance will ensure that it is included on the next available agenda. Otherwise the item will be included in the next agenda of the Scrutiny Committee.

## **17.9 Order of Business**

In addition to the provisions stipulated in the Council Procedure Rules at paragraph 12.26, the Scrutiny Committees shall also consider the following business:

- (a) consideration of any matter referred to it for a decision in relation to call in of a decision;
- (b) responses of the Cabinet to reports of the Scrutiny Committee; and
- (c) any other business as set out on the agenda for the meeting.

## **17.10 Policy Review and Development**

The role of the Performance Management Scrutiny Committee in relation to the development of the Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, the Scrutiny Committees may make recommendations or act as a consultee for the Cabinet for developments in so far as they relate to matters within their terms of reference.

The Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may (within resources deemed available by the proper officer) go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may (within resources deemed available by the proper officer) pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

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

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

Following any investigation or review, the Scrutiny Committee shall

prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### **17.11 Reports from the Scrutiny Committees**

Once it has formed recommendations, the Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet.

The Cabinet shall consider the report from the Scrutiny Committee at the next meeting of Cabinet for which the agenda has not yet been published.

The Cabinet will normally consider the Report within two months of it being submitted to Cabinet. However, the Leader and the Chairman of the Scrutiny Committee may agree a longer period.

Having considered the Report, Cabinet will provide a response. That response will be reported to Council, together with the original Scrutiny Committees Report, setting out details of Cabinets considerations, and set out any recommendations to the Council, including recommendations for a departure from or a change to the agreed Budget and Policy Framework.

If a Scrutiny Committee cannot agree on one single final report to Cabinet then up to one minority report may be prepared and submitted for consideration by Cabinet with the majority report.

#### **17.12 Rights of Scrutiny Committee Members to documents**

In addition to their rights as Councillors, members of the Scrutiny Committees in fulfilling their functions have additional rights to documents as set out in the Access to Information Procedure Rules.

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

#### **17.13 Members and Officers Giving Account**

The Scrutiny Committees may require any Cabinet Member, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit: any particular decision or series of decisions; and the extent to which the actions taken implement Council policy. It is the duty of those persons to attend if so required.

Where any Cabinet Member or Officer is required to attend a Scrutiny Committee under this provision, the Chairman will inform the proper officer. The proper officer shall inform the Cabinet Member or officer in writing giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for Scrutiny Committees consideration. Where the account to be given to Scrutiny Committee will require the production of a report, then the Cabinet Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Cabinet Member or officer is unable to attend on the required date, then the Scrutiny Committee shall in

consultation with the Cabinet Member or Officer to arrange an alternative date for attendance to take as soon as reasonably practicable.

#### **17.14 Attendance by Others**

The Scrutiny Committees may invite people other than those people referred to in paragraph 17.13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by those invited under this provision is entirely optional but encouraged in the spirit of partnership working and community engagement.

#### **17.15 Call In**

When a Key Decision is made by:

- (a) the Cabinet,
- (b) a Cabinet Member
- (c) a committee of the Cabinet,
- (d) an officer with delegated authority from the Cabinet, or
- (e) under joint arrangements,

the decision shall be published on the Councils website, and shall be made available at the main offices (Causeway House) of the Council normally within 3 working days of being made. Copies of all such decisions will be made available to all Councillors within the same timescale, by the person responsible for publishing the decision.

The notice publishing the decision shall bear the date on which it is published and will specify the date that the decision will come into force and may then be implemented on the expiry of five working days after the publication of the decision, unless the decision is called-in.

A decision taken, may be called in to the Scrutiny Committee whose remit includes the subject matter of the decision.

Individual decisions taken by Non-Executive Committees (Planning, Licensing, Standards and Audit Committees) cannot be the subject of call-in.

Any decision can only be called-in once.

A decision may be called in by:

- (a) the Chairman of the relevant Scrutiny Committee; or
- (b) any five non-cabinet Councillors.

All valid call-in notices will be referred to the relevant Scrutiny Committee for determination and the decision maker will be notified of the call-in.

The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the relevant Scrutiny Committee.

The Chairman of the relevant Scrutiny Committee is under an obligation to ensure that the meeting is held within the 10 working days. If the relevant Scrutiny Committee does not meet the required period, the decision shall take effect on the expiry of the 10 working day period.

If the relevant Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made then it will be deemed to be pre-determined on the matter and the call-in will be considered by another Scrutiny Committee.

#### **17.16 Call In Procedure**

A notice of Call In must be made direct to the Head of Governance, and must be received within five working days of the date of publication of the decision. The Call In notice must set out the details of the decision being called in and state clearly the reasons why the decision needs to be scrutinised based on one or more of the following seven assessment criteria:

- (a) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures;
- (b) The decision is contrary to the Council's Budget and Policy Framework;
- (c) The decision is not consistent with Council policy;
- (d) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable;
- (e) The decision is contrary to a previously agreed decision made by the Council, which has not been superseded by a subsequent decision;
- (f) The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision; or
- (g) The decision was not taken in accordance with the principles set out in Article 7 (Decision-Making) of the Constitution.

On receipt of the notice for call-in, the Scrutiny Officer will:

- (a) acknowledge receipt of the Notice;
- (b) Notify the decision maker in writing of the Call-in; and
- (c) Notify the Chairman of the relevant Scrutiny Committee.

The Head of Governance shall call a meeting of the relevant Scrutiny Committee on such date as they may determine, where possible after consultation with the Chairman of the Scrutiny Committee, and in any case within 10 working days of request to call-in.

#### **17.17 Informal Meeting**

Prior to the meeting of the Scrutiny Committee arranged under 17.10 above, the Chairman of the Scrutiny Committee may, in agreement with those

calling the decision in, call an informal meeting too be attended by the Chairman of the Scrutiny Committee, the Members calling in the decision, and the Decision Maker. The purpose of that meeting will be to discuss the issues and to see if the matter can be resolved.

The Scrutiny Officer will attend the informal meeting and will within 24 hours produce a note of the discussion and the outcome, for circulation to all parties for approval.

Once the note and the outcomes have been agreed, by all parties then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution. A report of any call ins that are dealt with by way of an informal meeting will be included on the Agenda for the next meeting of the Scrutiny Committee.

### **17.18 Meeting of the Scrutiny Committee**

If the Call In is not withdrawn as a result of the informal meeting, or an informal meeting is not held, the call in will be presented to the Scrutiny Committee for consideration, The Scrutiny Committee will meet within 10 working days of the notice of call-in. Wherever possible scheduled meetings of the Scrutiny Committee will be used. Where this is not possible the Scrutiny Officer will liaise with the parties concerned and arrange a special meeting.

At the meeting to consider the call-in notice, the Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.

The meeting shall be conducted in the following way:

- (a) The Members requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
- (b) the decision-maker shall establish the reasons behind the decision;
- (c) Questions can be asked by:
  - (i) Those calling in the decision;
  - (ii) The relevant Cabinet Member or relevant Officer; and
  - (iii) The Scrutiny Committee.

All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter.

Both those calling in the decision and the decision maker are permitted to stay at the meeting whilst the Scrutiny Committee debates and decides what action to take at the discretion of the relevant Scrutiny Committee Chairman. However, they will not be able to participate in the general debate. The Chairman may allow them to answer questions or points of clarification arising through the debate.

### **17.19 Decisions referred back to the Decision Maker**

On considering the matter, the Scrutiny Committee will decide whether or not to ask the decision-maker to reconsider its decision.

If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Scrutiny Committee considers the executive decision is contrary to the Budget and Policy Framework; the Scrutiny Committee may refer the matter to the next practicable meeting of the Council.

If the relevant Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 10 working days following the meeting of the relevant Scrutiny Committee, unless the decision maker was an Officer in which case it will be referred back to the Leader or relevant Cabinet Member for consideration. In that circumstance the Leader or relevant Cabinet Member shall be required to reconsider the decision within 10 working days.

If the Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and shall take effect at the conclusion of the meeting of the Scrutiny Committee.

If the matter is referred to Council, who do not object to the decision the subject of call-in, no further action is necessary and the decision will be effective on the date of the Council meeting. If Council does object to the decision the subject of call-in, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision.

The decision-maker shall, within a further 10 working days, choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet or a committee of it, the next meeting of the Cabinet will consider the request of the Council. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before determining what action should be taken.

If the Council does not meet, or if it does but does not refer the Key Decision back to the decision making body or person, the Key Decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## **17.20 Exceptions to Call In**

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:



## **Urgent Decisions**

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chairman of the Performance Management Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency in accordance with the provision of this Constitution.

## **Other Exceptions**

The following will not be subject to Call-in:

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to an Scrutiny Committee for comment.
- (b) Recommendations from Cabinet to Council.
- (c) Decisions by the Cabinet where the issue has been referred to them by the Council or an Scrutiny Committee for their view or comment
- (d) Non key Decisions

Unless the decision has taken into account new material considerations arising since the original consultation with the Council or a Scrutiny Committee, a decision by the Cabinet in response to such consultation shall not be subject to call-in.

Where the Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of paragraph 17.22 above. In such circumstances the Chairman of the relevant Scrutiny Committee, or Vice-Chairman so authorised to act in their absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 1 of this Constitution and a report submitted to Council with proposals for review if necessary.

## **18. Officer Employment Procedure Rules**

These Rules are subject to and must be read in accordance with the provisions of The Local Authorities (Standing Orders) (England) Regulations 2001.

### **18.1 Recruitment and Appointment**

#### **Declarations**

The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons; or if they are related in any other way to such persons.

No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.

A candidate who fails to disclose a relationship as set out in paragraph 18.1 above may be disqualified for the appointment and, if appointed, may be liable to dismissal without notice.

#### **Seeking support for appointment**

Subject to providing a written reference as set out below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

Subject to providing a written reference as set out below, no Councillors will seek support for any person for any appointment with the Council.

Nothing in paragraphs 18.1 will preclude a Councillor from giving a written reference for an applicant for submission with an application for appointment.

### **18.2 Recruitment of Head of Paid Service and Chief Officer**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

- (a) Draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed.
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

- (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.

Where a post has been advertised as set out in paragraph 18.2, the Council shall:

- (a) interview all qualified applicants for the posts, or
- (b) select a shortlist of such qualified applicants and interview those included on the shortlist; or
- (c) where no qualified person has applied, the Council shall make further arrangements for the advertisement in accordance with 18.2(b).

### **18.3 Appointment of Head of Paid Service, Monitoring Officer and Chief Financial Officer**

Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of a Committee of the Council established for the purposes of that recruitment.

That Committee must include as a minimum, the Leader, one Member of the Cabinet and the Chairman of the Performance Management Scrutiny Committee.

Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any Member of the Cabinet.

### **18.4 Appointment of Corporate Directors**

The Committee of Council appointed for this purpose will appoint the Corporate Directors, as defined in this Constitution.

That Committee must include as a minimum, the Leader, one Member of the Cabinet and the Chairman of the Performance Management Scrutiny Committee.

An offer of appointment to a Corporate Director shall be made only where no valid well-founded objection from any Member of the Cabinet has been received.

### **18.5 Other Appointments at Tier 3**

The appointment of Officers at Tier 3, i.e. those directly reporting to a Corporate Director, is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

The appointment of an assistant to a political group in pursuant to section 9 of the Local Government and Housing Act 1989 shall be made in accordance with the wishes of that political group.

## **18.6 Notification of Appointments**

No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Corporate Director until:

- (a) The Chairman of the Committee established for the purpose of the recruitment to that post (on behalf of the Committee) has notified the Head of HR or their Deputy, of the name of the person to whom the post is to be offered and any other matter relevant to the appointment.
- (b) The proper officer has notified every Member of the Cabinet of the name and of the person to whom the post is to be offered and any other matter relevant to the appointment.

The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in paragraph 18.6(b).

An offer of appointment may be made if:

- (a) The Leader of the Council has notified the proper officer within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment.
- (b) The proper officer has notified the Committee that they have not received any objection in the period specified in paragraph 18.6.
- (c) The Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

## **18.7 Disciplinary Action**

### **Statutory Officers**

The Statutory Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and shall be for no longer than 6 months.

In the following paragraphs:

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the Councils paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the

- Council;
- (f) “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or Councils as the Council considers appropriate
  - (g) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officer” means the chief finance officer, head of the Council’s paid service or monitoring officer, as the case may be.

A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

Subject to paragraph 18.6, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 18.4 in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the Council;
- (c) a relevant independent person who has been appointed by another Council or Council’s.

The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 18.4 but may do so.

The Council must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

With regards to disciplinary issues in connection with the Statutory Officers, the panel can only make a recommendation for dismissal. In instances where its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules. The panel together with the Independent Persons must refer its recommendation to Full Council.

Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration,

allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.

### **Corporate Directors**

The Committee established by the Council for this purpose shall deal with disciplinary issues in connection with the Corporate Director and any assistant to political groups and resolve any action which it considers appropriate.

The Corporate Directors may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and shall be for no longer than 6 months.

### **Other Officers**

Members will not be involved in the disciplinary action or dismissal against any other officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply.



## **Chapter 3**

### **The Codes and Schemes**





## **19. Member Code of Conduct**

### **19.1 General Provisions**

As a Member you are a representative of this Council and the public will view you as such therefore your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council

This Code as a whole is consistent with “Nolan Principles” which are set out in s29(1) Localism Act 2011 and are as follows:

#### **Selflessness**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person.

#### **Integrity**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### **Objectivity**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

#### **Accountability**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

#### **Openness**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

#### **Honesty**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

#### **Leadership**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

In this Code-

(a) “meeting” means any meeting of:

- (i) the Council;
- (ii) the Executive of the Council (Cabinet);

- (iii) any of the Council's or its Executive's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members; or
  - (iv) any briefings by Officers and site visits organised by the Council.
- (b) "relevant period" means the period of 12 months ending with the day on which you give notification to the Monitoring Officer of any disclosable pecuniary interests you had at the time of the notification.
- (c) "profit or gain" includes any payments or benefits in kind which are subject to Income Tax.
- (d) "beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.
- (e) "Member" includes a co-opted member.

## **19.2 Who does the Code apply to?**

This Code applies to all Members of the Council including Co-Opted Members.

It is your responsibility to comply with the provisions of this Code.

## **19.3 What does the Code apply to?**

You must comply with this Code whenever you:

- (a) Conduct the business of the Council, or
- (b) You are acting as a representative of the Council.

This Code has effect in relation to your conduct in your official capacity.

## **19.4 Where you act as a representative of the Council**

On another relevant Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct; or

On any other body, you must, when acting for that other body, comply with the Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **19.5 General obligations**

- (a) You must treat others with respect.
- (b) You must uphold the law.

(c) You must not –

- (i) Do anything which may cause the Council to breach any of the equality enactments;
- (ii) Bully any person;
- (iii) Intimidate or attempt to intimidate any person who is or is likely to be:
  - 1. a complainant;
  - 2. a witness; or
  - 3. involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Council's code of conduct; or
  - 4. Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

## **19.6 Confidential Information**

You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) You have the consent of a person authorised to give it;
- (b) You are required by law to do so;
- (c) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) The disclosure is, reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the Council;

You must not prevent another person from gaining access to information to which that person is entitled by law.

## **19.7 Conferring an Advantage or Disadvantage**

You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

You must when using or authorising the use by others of the resources of the Council, act in accordance with the Council's reasonable requirements and ensure that such resources are not used improperly for political purposes (including party political purposes);

You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **19.8 Members Interests**

### **Disclosable Pecuniary Interests**

You have a Disclosable Pecuniary Interest (DPI)<sup>1</sup> in any business of the Council if it is of a description set out below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as “Relevant Persons”).

A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Council or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Council's area
- (e) A licence of any land in the Council's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f) Any tenancy where to your knowledge:
  - (i) the landlord is the Council and
  - (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the Council and either:
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

## **19.9 Other Pecuniary Interests**

You have an Other Pecuniary Interest in any business of the Council where it relates to or is likely to affect:

- (a) Any person or body who employs or has appointed you;

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011 and take precedence over this definition

- (b) Any contract for goods, services or works made between the Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 19.8 (g)(ii) which has been fully discharged within the last 12 months;

#### **19.10 Non-Pecuniary Interests**

You have a non-pecuniary interest in any business of the Council where it relates to or is likely to affect -

- (a) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (b) Any body of which you are a member or in a position of general control or management
  - (i) functions of a public nature; or
  - (ii) Directed to charitable purposes; or
  - (iii) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (c) The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) A decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of:-
  - (i) (In the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (In all other cases) other council tax payers, ratepayers or inhabitants of the Council's area.

#### **19.11 Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

Subject to paragraphs below, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Council and you are present at a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

This section only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.

Where you have an interest in any business of the Council which would be disclosable by virtue of paragraph 19.11 but by virtue of paragraph 19.14 (Sensitive Information) details of the interest are not registered in the Council's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.

Where you have a Pecuniary Interest in any business of the Council which would be Disclosable by virtue of paragraph 19.11 and a function of the Council may be discharged by you acting alone in relation to that business, you must ensure you notify the Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.

Where you have an interest in any business of the Council which would be disclosable by virtue of paragraph 19.11 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph “executive decision” is to be construed in accordance with any Regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

## **19.12 Effect of Interests on Participation**

### **Disclosable Pecuniary Interests**

If you are present at a meeting of the Council or of any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Council and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:

You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting unless you have received a dispensation from the Council’s proper officer.

You must withdraw from the room or chamber where the meeting considering the business is being held.

If you have a Disclosable Pecuniary Interest in any business of the Council you must not exercise executive functions in relation to that business; or seek improperly to influence a decision about that business

If a function of the Council may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

### **Other Pecuniary Interests**

If you have an other Pecuniary Interest in any business of the Council which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Council at which such business is to be considered or is being considered you must disclose the existence and nature of the interest in accordance with paragraph 19.11 and; Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Council’s proper officer.

## **Non-Pecuniary Interests**

After having declared an interest in accordance with paragraph 19.11 you may then participate and vote unless: a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement; or your interest may give rise to a perception of conflict of interest or bias, in which case you must withdraw.

### **19.13 Register of Members Interests**

#### **Registration of Members' Interests**

Subject to paragraph 19.14, you must, within 28 days of this Code being adopted by or applied to the Council; or your Election, Re-Election or Appointment or Re-Appointment to Office (where that is later), or co-opted onto the Council register in the Council's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (a) Disclosable Pecuniary Interests as referred to in paragraph 19.8 that you or a Relevant Person has in so far as you are aware of their interests at that time;
- (b) Other Pecuniary Interests referred to in paragraph 19.9 that you have;
- (c) Non-pecuniary interests referred to in paragraph 19.10 that you have.

You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in 13.1 above within 28 days of the change occurring or becoming aware of the change.

### **19.14 Sensitive Information**

Where you have a Disclosable Pecuniary Interest referred to in paragraph 19.8 or Other Pecuniary Interest referred to in paragraph 19.9 and the nature of the interest is such that you and the Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Council's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify the Monitoring Officer.

In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

### **19.15 Register of Gifts and Hospitality**

You must within 28 days of receipt, notify the Monitoring Officer in writing of any

gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Council.

The Monitoring Officer will place your notification on a public register of gifts and hospitality.

This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Council for this purpose.



## 20. Member Allowance Scheme

### 20.1 Scheme and Commencement

This Members' Allowances Scheme is set further to the Local Authorities (Members' Allowances) (England) Regulations 2003 (the Regulations) and takes effect from the 25 March 2019 and supersedes previous schemes.

The scheme will continue until reviewed, either in accordance with the terms of the scheme or by way of amendment by Council.

This Scheme may be amended at any time by the Council but may only be revoked with effect from the beginning of a Civic Year.

This scheme shall be reviewed annually and any amendments must have regard to any recommendations of the Independent Remuneration Panel made as part of their report.

The Independent Remuneration Panel shall convene at least every four years for consideration of the scheme and submission of its recommendations to Council.

### 20.2 Basic Allowance

With effect from 19 April 2021, all Councillors will be entitled to receive a Basic Allowance of £5,065.28 per annum, subject to the provisions of this Scheme.

### 20.3 Special Responsibility Allowance

A Special Responsibility Allowance shall be paid to those Councillors who hold positions with additional special responsibilities as specified in Table 1, and is paid in recognition of the extra duties which the Member is expected to perform. The amount of the Special Responsibility Allowance payable will vary according to the position held, the duties undertaken and the level of responsibility involved.

Subject to Paragraph 20.6, the amount of each such Special Responsibilities Allowances are set out in Table 1.

Councillors are not able to claim more than one Special Responsibility Allowance, and are only entitled to whichever is highest.

**Table 1:**

Special Responsibility	X Basic Allowance	Additional Allowance
<b>All Members Basic Allowance (April 2019)</b>		<b>£5,064.00</b>
<b>Council</b>		
Chairman of the Council	X 1	£5,064.00
Vice Chairman of the Council	X 0.5	£2,532.00
Leader of the Council	X 3	£15,192.00
Deputy Leader of the Council	X 2.5	£12,660.00
<b>Cabinet</b>		
Member of the Cabinet	X 2	£10,128.00

Deputy Cabinet Members	X 1	£5,064.00
Cabinet Support Member	X 0.75	£3,798.00
<b>Committees</b>		
<b>Planning Committee</b>		
Chairman of the Planning Committee	X 1.75	£8,862.00
Vice-Chairman of the Planning Committee	X 0.875	£4,431.00
Minor SRA to all Members of the Planning Committee (excl. Chairman and Vice-Chairman) at least 75% of called meetings of the committee	X 0.25	£1,266.00
Substitutes – paid per meeting attended	X 0.04	£50.00
<b>Local Plan Sub-Committee</b>		
Chairman of the Local Plan Sub-Committee	X 1	£5,064.00
<b>Licensing</b>		
Chairman of the Licensing Committee	X 1	£5,064.00
Vice-Chairman of the Licensing Committee	X 0.5	£2,532.00
<b>Scrutiny Committees</b>		
Chairman of Performance Management Scrutiny Committee	X 1.5	£7,596.00
Vice-Chairman of Performance Management Scrutiny Committee	X 0.75	£3,798.00
Chairman of governance and Audit Scrutiny Committee	X 1	£5,064.00
Vice-Chairman of Governance and Audit Scrutiny Committee	X 0.5	£2,532.00
Chairman of Community Development Scrutiny Committee	X 1	£5,064.00
Vice-Chairman of the Community Development Scrutiny Committee	X 0.5	£2,532.00
Chairman of the Partnership Development Scrutiny Committee	X 1	£5,064.00
Vice-Chairman of the Partnership Development Scrutiny Committee	X 0.5	£2,532.00
<b>Others</b>		
Leader of the Largest Opposition Group	X 1	£5,064.00
Leader of Other Opposition Groups of more than 5 members	X 0.25	£1266.00
(Note no SRA is payable to Leaders of groups of less than 5 Members)		
Chairman of the Independent Remuneration Panel	X 0.125	£633.00

## 20.4 Communications Allowance

All Members (excluding Members with a Council provided device) shall be entitled to a fixed sum of £40 per month to support their communication costs, including the cost of providing computer equipment.

A Councillor can by agreement with the Head of Governance claim in advance up to two years of this element of the allowance in a single lump sum to support capital purchases, provided that the Councillor agrees to repay any overpayment if they cease to be a Councillor.

## 20.5 Member Development Allowance

All Members are entitled to receive a Member Development Allowance up to £400 per year, payable at the end of the Civic Year. Payment of the Member Development Allowance is directly linked to Member's actual attendance at Member Development Evening Programme events on a percentage threshold. The table below sets out the qualifying attendance and the amount payable.

% annual attendance	Less than 10%	Over 10%	Over 25%	Over 50%	Over 75%
% of Allowance	0%	25%	50%	75%	100%
Value of Allowance	£0	£100	£200	£300	£400

Attendance will be reviewed based on attendance of the Councillor at all relevant Member Development Evening Programme Events that take place within the financial year, with any payment due being made in the March of that financial year.

Absences on long term medical grounds or other accepted exceptional circumstances, or required attendance at a meeting of an outside body (as appointed by Council or Cabinet only) on the same date as a training session may be approved in advance of the meeting by the Monitoring Officer as a permitted absence.

## **20.6 Renunciation**

A Councillor may, by notice in writing to the Head of Governance, elect to forego any part of their entitlement to any allowance under this Scheme.

## **20.7 Increases in Entitlements**

The Basic Allowance and the Special Responsibility Allowances shall be increased in line with the Local Government Staff Annual Pay Award, and in line with its provisions as to payment.

## **20.8 Part-year Entitlements**

The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances where, in the course of a year, this Scheme is amended, or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

In respect of a Basic Allowance, where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a civic year, the entitlement shall be proportioned to the number of days during which the term of office as a Councillor bears to the number of days in that civic year, taken together with the Member Development Link in the same relative proportions.

Where a Councillor has during part of, but not throughout, a whole year such special responsibilities as entitle them to a Special Responsibility Allowance, that Councillor's entitlement shall be proportioned as the number of days during which they held the special responsibilities and which bears to the number of days in that

civic year.

Where an amendment to this Scheme is made which affects an allowance payable for the civic year in which an amendment is made, the entitlement to such allowance, as amended, may apply with effect from the beginning of the civic year in which the amendment is made.

## **20.9 Claims and Payments**

Any and all claims for travelling expense reimbursement and/or subsistence payment under this Scheme shall be made via the Council's online payroll system not later than two months following the date of the approved duty in respect of which the entitlement to the payment arises.

Except, where the approved duty is undertaken in March in any year then all claims shall be submitted no later than the following 1st May. No reimbursement or payment under this Scheme shall be made where these time limits have not been complied with unless there are extenuating circumstances.

A claim for travelling expense reimbursement and/or subsistence payment under this Scheme shall include, or be accompanied by, a statement by the Councillor claiming the payment, that they are not entitled to receive remuneration in respect of the matter to which the claim relates otherwise than under this Scheme.

Payments shall be made by bank transfer on the twentieth day in each month or before twentieth day in the event if it falls at a weekend/bank holiday.

Basic, Special Responsibility and Communication Allowances are paid in twelve equal instalments and apportioned for part-year entitlement where applicable.

Allowances and claims will be taxed according to the prevailing taxation rules including for PAYE and National Insurance. Councillors are responsible for meeting any tax liabilities which relate to their circumstances.

## **20.10 Membership of another Council**

Where a Councillor is also a Member of another Council, that Councillor may not claim expenses from more than one Council in respect of the same duties.

## **20.11 Childcare Allowance**

The Council has agreed that a Childcare Allowance shall be paid.

An Allowance may be claimed for costs incurred when a carer for a child has been engaged to enable a Councillor to undertake an approved duty. The actual cost of care will be reimbursed up to a maximum of £10 per hour provided that no Councillor may claim for more than two meetings per week up to a maximum of 8 hours.

An Allowance will be payable in respect of any child being cared for who normally lives with the Councillor as part of that Councillor's family and who should not be left unsupervised.

The carer must not be an immediate member of the Councillor's family or be someone who normally lives with the Councillor as part of that Councillor's family.

Councillors who claim a Childcare Allowance are required to certify that the amounts claimed have actually been incurred and that neither the Councillor nor the person being cared for has received an allowance for care from any other source.

#### **20.12 Dependent Carer's Allowance**

The Council has agreed that a Dependent Carer's Allowance shall be paid.

An Allowance may be claimed for costs incurred when a carer for a dependent person has been engaged to enable a Councillor to undertake an approved duty. The actual cost of care will be reimbursed at a reasonable cost of provision in the circumstances provided that no Councillor may claim for more than two meetings per week up to a maximum of 8 hours.

An allowance will be payable in respect of any dependent being cared for who normally lives with the Councillor as part of that Councillor's family and who should not be left unsupervised.

The carer must not be an immediate member of the Councillor's family or be someone who normally lives with the Councillor as part of that Councillor's family.

Members who claim a Dependent Carer's Allowance are required to certify that the amounts claimed have actually been incurred and that neither the Councillor nor the person being cared for has received an allowance for care from any other source.

#### **20.13 Travelling Expenses/Subsistence Allowance Claims**

For travelling expense reimbursement and subsistence allowance purposes, any claim for payment must be in respect of the previous undertaking of an Approved Duty as set out in paragraph 20.14.

Expenditure must have been incurred in the performance of duties that were designated as approved before the duty was performed.

Any claim will be paid for actual expenditure up to the limits set out in this scheme. Any sum expended over this is not recoverable. Receipts must be submitted for all expenditure, including any parking, tolls or other fees.

When booking public transport where any low cost or reduced travel fare is available, it must be used. Standard class accommodation should be used.

Councillors would not normally be expected to use their own vehicles for journeys outside the District boundary unless it can be demonstrated that the cost to the Council would be less than travel by train, e.g. where a number of Councillors are going to the same destination and will be travelling in the same car. There may also be cases where it would be more practical to use a Councillor's own vehicle. In such cases a claim may be made equivalent to the cost of the most economic method of travel.

Where Councillors and Officers are travelling to the same destination the least

number of cars necessary to safely undertake the journey shall be used. Where any one or more of the officers has a lease car then a lease car must be used for the journey. Where this is not the case but an Officer has a car purchased with the benefit of a loan from the Council then this car must be used. If there is no lease car or car purchased with the benefit of a loan available then agreement shall be reached between all those travelling as to the car which will be used.

Any penalty charges for failure to pay for sufficient parking, tolls or other charges are the responsibility of the Councillor and may not be claimed for.

## **20.14 Approved Duties**

- (a) The attendance at a meeting of the Council, or of any Committee or Sub-Committee of the Council, or of any other body to which the Council makes appointments or nominations and for which the Councillor making the claim is the appointed nominee, or any Committee or Sub-Committee of such a body.
- (b) The attendance at any other meeting, the holding of which is authorised by the Council, or a Committee or Sub-Committee of the Council, or a Joint Committee of the Council and one or more Authorities within the meaning of Section 270(1) of the Local Government Act 1972, or a Sub-Committee of such a Joint Committee provided that:-
  - (i) Where the Council is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or
  - (ii) If the Council is not so divided, it is a meeting to which at least two members of the Council have been invited.
  - (iii) The attendance at a meeting of any association of authorities of which the Council is a member.
- (c) The attendance at a meeting of the Cabinet or any of its Committees.
- (d) Duties undertaken on behalf of the Council:-
  - (i) In pursuance of any standing order made under Section 135 of the Local Government Act 1972 requiring a Member to be present while tender documents are opened;
  - (ii) In connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises
- (e) Pre-agenda briefings.
- (f) Training authorised under the Members' Training Programme which has been pre- booked through the Council's Training Administrator.
- (g) Attendance at Parish Council meetings within a Councillor's ward for the sole purpose of representing the District Council.
- (h) Previously arranged meetings with Officers of the Council at Council premises regarding constituency or relevant Council matters.

- (i) Site meetings at any location detailed in the agenda/minutes of a Committee with or without the attendance of a Council Officer.
- (j) Non-social public relations events.
- (k) Any other duty approved by the Council, or any duty of a class so approved for the purpose of, or in connection with, the discharge of the functions of the Council, or any of its Committees or Sub-Committees.
- (l) Attendance at meetings of organisations (e.g. the Local Government Association) are approved by the Council for travel and subsistence claims SUBJECT to approval by the relevant Member's Political Group Leader (if any); and appropriate arrangements being in place for reporting back from the relevant meeting
- (m) Attendance at conferences has been approved under Section 175 of the Local Government Act 1972 for the payment of travel and expenses claims subject to approval by the relevant Member's Political Group Leader (if any), completion in advance of the appropriate Member Nomination Form (obtained from the OD&L or Human Resources); and appropriate arrangements being in place for reporting back from the relevant conference

#### **20.15 Exclusions to Approved Duties**

The Council excludes the following activities from being Approved Duties even if they may also fit within a relevant definition:-

- (a) Political meetings whether National, Local, Group or Parish
- (b) Ward visits including research except in accordance with paragraph 9 of this Scheme;
- (c) Civic hospitality, social events, funerals and functions (receptions, official openings, sporting occasions) where invitations are personal and not as a representative of the Council;
- (d) Conferences and seminars of interest where the Member attends on a personal basis rather than as a representative of the Council;
- (e) Visits by Members to the Council offices except in accordance with paragraph 14.8 of this Scheme; and
- (f) Surgeries

#### **20.16 Approved Mileage Rates**

- (a) For Motor cars 45p a mile
- (b) For Motorcycles 24p a mile
- (c) Pedal cycles 20p a mile

The rates specified for Motor Cars and Motorcycles shall be increased by 5p per mile for each additional passenger, who would be able to claim mileage under this scheme

## **20.17 Taxis**

The use of taxis or mini-cabs should be kept to a minimum. They should only be used when public transport operations in the area visited are unknown, not reasonably available or in cases of urgency. In these cases the actual fare will be reimbursed.

Where public transport is available but the Member chooses to use a taxi or mini-cab, reimbursement will be limited to the equivalent public transport ordinary second class fare.

In limited circumstances, a Member may be reimbursed for the actual cost of a taxi within the District. Except for Members with a disability which prevents them from using public transport, travel from home to council offices (or vice versa) is excluded from this arrangement.

The limited circumstances are:-

- (a) If there is insufficient time for a Member to travel from one approved duty to another in the District and the use of other forms of transport would result in the Member arriving late to the second approved duty;
- (b) For reasons of safety; and
- (c) Where a Member has a disability which prevents them from using public transport

## **20.18 Air Travel**

Air travel is only to be approved where there are no reasonable alternatives taking into account availability and cost. The rate of travel by air shall in each case be individually considered by the Chief Executive and the Leader and if approved, booked by the office of the Chief Executive.

## **20.19 Subsistence Allowances**

The payment of Subsistence Allowances is subject to the principle that expenditure on meals/accommodation has actually been incurred. Members will be reimbursed the actual expenditure incurred up to the maximum rates set out in the scheme. All claims must be supported by receipts or third party documentation.

No claim for subsistence is permitted where refreshments are provided, either by the venue or through the Council.

In the case of an absence, not involving absence overnight from the usual place of residence:

- (a) Breakfast allowance (more than 4 hours away from normal place of residence) - £6.68
- (b) Lunch allowance (more than 4 hours away from normal place of residence, including the lunchtime between 12 noon and 2 p.m.) £9.22
- (c) Tea allowance (more than 4 hours away from normal place of residence, including 3-6 p.m.) - £3.64
- (d) Evening meal allowance (more than 4 hours away from the normal place of residence, ending after 7 p.m.) - £11.42



In the case of an absence overnight from the usual place of residence, the reasonable expenses that are incurred up to a maximum of £90.61 and for such an absence overnight in London, £103.35. If this is claimed, no claim can be made in respect of 20.19 (a) – (d).

For the purpose of this scheme, London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

Notwithstanding the provisions of section 20.19, where accommodation is booked directly by the Council the full cost of the accommodation will be funded by the Council, although subsistence may only be claimed to the stated limits including the cost of the accommodation.

## **21. Gifts and Hospitality Guidance**

### **21.1 Introduction**

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position. This guidance supports the Members' Code of Conduct

The law on the acceptance of gifts and hospitality is set out in the Council's Code of Conduct for Members and in the Bribery Act 2010. These requirements are then supplemented by the procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 10 years' imprisonment.

This guidance sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it; and
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council.

### **21.2 General Principles**

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles.

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor:
  - (i) As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
  - (iii) The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or not doing anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of up to 10 years
  - (iii) Further, the Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

- (b) You should only accept a gift or hospitality if there is a commensurate benefit to the Council.
  - (i) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
  - (ii) Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
  - (iii) As set out above, the Council's Code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.
- (c) Never accept a gift or hospitality if acceptance might be open to misinterpretation
  - (i) The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
  - (ii) Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
    - (1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular Tenderer.
    - (2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
    - (3) funding decisions, when the Council is determining a grant application by any person or organisation.
- (d) Never accept a gift or hospitality which puts you under an improper obligation
  - (i) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

- (e) Never solicit a gift or hospitality
  - (i) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor. You should also take care to avoid giving any indication that you might be open to such any improper offer. Asking for a benefit may be an offence under the Bribery Act 2010.

### **21.3 Consent Regimes**

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another Public Authority
- (b) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (d) small gifts of low intrinsic value below £50, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (e) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a Contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (f) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- (g) modest souvenir gifts with a value below £50 from another Public Authority given on the occasion of a visit by or to the Council
- (h) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction to make it clear that any such hospitality for Councillors and Officers is to be no more than commensurate with the nature of the visit
- (i) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the secretary to the Chairman of the Council together with a written statement identifying the

information set out below. The Chief Executive will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

Special consent provisions exist where you wish to accept any gift or hospitality which is in accordance with the General Principles set out above, but is not within any of the general consents set out above. You may only accept the gift if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (a) the nature and your estimate of the market value of the gift or hospitality
- (b) who the invitation or offer has been made by or on behalf of
- (c) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
- (d) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council
- (e) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of the gift as set out below.

## **21.4 Reporting**

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, you must, as soon as possible but not later than 28 days after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 21.3 above. A form for this purpose is available from the Monitoring Officer, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## **21.5 Gifts to the Council**

Gifts to the Council may take the form of the provision of land, goods or services,

either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council.

You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and Developers' contributions under Section 106 Agreements.

If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits).

If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council.

If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

## **21.6 Definitions**

"Gift or hospitality" includes any:

- (a) free gift of any goods or services
- (b) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- (c) opportunity to obtain any goods or services which are not available to the general public
- (d) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

## **22. Protocol on Member/Officer Relationships**

### **22.1 Introduction**

The Success of the Council is greatly dependent upon the positive working relationship between Members and Officers. It is important that there should be a close working relationship between a Cabinet Member and the Chief Officers, Heads of Service and other appropriate senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, that the Officer's ability to deal impartially with other Members and party groups is brought into question.

It is important that dealings between Members and Officers should observe normal standards of courtesy, there should be mutual trust and respect, and neither party should seek to take unfair advantage of their position.

This Protocol seeks to enhance the working relationships between Members and Officers of the Council. Whilst the Protocol cannot be comprehensive it sets out guidance on some of the key issues that arise in those relationships. The Protocol reflects the principles underlying the Member Code of Conduct and the Principles of Public Life. The shared objective is to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct.

### **22.2 The Role of Members and Officers**

In fulfilling their roles, the elected Members and Officers are both jointly responsible for:

- (a) acting honestly, with integrity and in the public interest; and
- (b) open and transparent objective decision making.

In addition to the requirements set out in Article 2 and Article 6 of the Constitution, the Members' role is to:

- (a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (c) Effectively represent the interests of their ward and of individual residents;
- (d) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (e) Be involved in decision-making for the people of the District as a whole;
- (f) Be available to represent the Council on other bodies; and
- (g) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

In addition to the requirements set out in Article 3 of the Constitution, Officers are responsible for:

- (a) providing professional and technical advice that Members must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Members' decisions;
- (c) day-to-day administration, including staffing matters;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and
- (f) undertaking public consultation.

### **22.3 Underlining Principles for the Working Relationships**

The following principles apply to both Members and Officers during the course of their working relationship and in fulfilling their duties and are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

- (a) Mutual respect and courtesy between Officers and Members;
- (b) An awareness of each other's responsibilities and duties;
- (c) No inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind;
- (d) Any appropriate challenges are to be conducted in a professional and respectful manner;
- (e) Equal treatment, regardless of personal or political opinion (actual or perceived);
- (f) An adherence to the law and the lawful instructions and advice of others; and
- (g) An avoidance of close personal familiarity.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee, breaches of the Officer Code of Conduct as contained in the Council's HR Policies are dealt with the Head of Paid Service, in accordance with the Council's HR Policies and Procedures.

If an Officer is concerned about the conduct of a Member, they should report this to their senior manager, who will notify both the Head of Paid Service and the Monitoring Officer. These concerns could include public criticism of an Officer by a Member or unreasonable, frivolous or vexatious requests for information.

### **22.4 Officer Appointments, Performance and Political Neutrality**

The appointment of the Chief Officers and Statutory Officers will be made in accordance with the Officer Employment Procedure Rules. All other appointments are made at the appropriate Officer level.



The main functions and areas of responsibility of Officers are set out in Article 3 and Chapter 4 of the Constitution. The position of the Head of Paid Service is to have overall corporate management and operational responsibility (including overall management responsibility for all officers).

Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers.

Members may wish to comment on an individual Officer's performance and/or deficiencies. In such instances these are expected to be raised with the relevant Chief Officer in the first instance. Thereafter to the Chief Executive if unresolved.

Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to Elections. In their lives outside work, all politically restricted posts, which includes the Chief Officers and Statutory Officers and many Senior Officers, are prevented from active political involvement.

## **22.5 Officer Advice to Party Groups**

There is statutory recognition for Party Groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by Party Groups provided that this is first agreed between the relevant Group Leader and the Chief Executive.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman, a Cabinet Member or a Group (either jointly or individually) to a presentation to a full Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;
- (b) Party Group meetings, whilst they inform part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- (c) where Officers provide information and advice to a Party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered; and

- (d) the attendance of Officers at a Party Group meeting does not confer on that meeting any official standing.

Special care needs to be exercised whenever Officers are involved in providing information and advice to a Party Group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Code (in particular, the provisions concerning the declaration of interest and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

Officers must respect the confidentiality of any Party Group discussions at which they are present in the sense that they should not relay any confidential information to another Party Group.

Any particular cases of difficulty or uncertainty with providing advice to Party Groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

## **22.6 Support Services to Members**

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with Party Political or Campaigning activity or for private purposes or for purposes not directly related to Council business. A similar restriction applies to the Public Relations Officers.

## **22.7 Members' Access to Information and to Council Documents**

Both Members and Officers must adhere to the Access to Information Procedure Rules as set out in the Constitution.

Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

Members are able to approach any Council Service with a request to provide them (within a reasonable period) with such information, explanation and advice (about that Service's functions), as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.

Members entitlement to information from Officers is linked to their role as a Member of the Council, a Ward Councillors, decision makers and performing functions, such as overview and scrutiny (this is referred to as the common law 'need to know' principle). Under common law principles Members have the right to access information held by the Council where it is reasonably necessary to enable the Member to properly perform their duties as a Councillor.

However, if the Member's motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on a 'fishing expedition' through the Council's documents.

If a Councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the Councillor would have to show good cause why sight of them is necessary to perform their duties.

In such instances, the Chief Officers may request a Member to demonstrate their 'need to know'.

All requests for information from members should normally be directed to the relevant Head of Service or Chief Officer. It must be remembered, however, that Officers within a Service are accountable to their Head of Service and whilst Officers should always seek to assist Members they must not, in doing so, go beyond the bounds of the Council they have been given by their Head of Service. Individual Members (except Cabinet Members acting under delegated authority) do not have the power or authority to instruct Officers to provide information, explanations, advice or to carry out any specific task or tasks.

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the private agenda for meetings in accordance with the provisions of the Access to Information Procedure Rules.

Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided and in connection with the proper performance of the Member's duties as a Member of the Council.

## **22.8 Correspondence**

Correspondence between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent over the name of the Member.

## **22.9 Decision Making**

Decision making by the Council is closely regulated by law. The taking of a decision by the wrong person or body or taken in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being overturned by a court at a later date.

The law does not interfere with the merits of a decision which is normally left to the discretion of the Council. The law is concerned with process and any failure to follow lawful process will be addressed by the courts, sometimes with severe consequences as to the liability of an authority to others.

All Members and senior officers must understand the parameters of the authority they exercise and recognise that acting outside those parameters leaves the Council open to legal liability and/or public criticism. For Members, such actions are likely to amount to a breach of the Member Code of Conduct and for Officers, may lead to disciplinary proceedings.

## **22.10 Officer Advice**

Any Cabinet Member taking decisions individually must take advice from the relevant officer(s). In taking Officer advice, Cabinet Members must consider what advice they require from the relevant service areas in respect of the particular issue to be addressed.

A Cabinet Member must always have the advice of the Monitoring Officer and Section 151 Officer when taking decisions.

The Cabinet Member must give officers adequate opportunity to provide them with the advice on the issue prior to them taking the decision.

If the Chief Executive and/or the Monitoring Officer agree that a decision is unlawful or in breach of existing Council policy or procedure, they will refer the matter back to the relevant Cabinet Member asking them to reconsider. Ultimately, and in a case of serious disagreement, the Monitoring Officer is under a legal duty to report any likely breach of the law to full Cabinet.



## **Chapter 4**

### **The Functions and Responsibilities**



## **23. Responsibility for Functions**

### **23.1 Introduction**

Section 13 of the Local Government Act 2000 (the 2000 Act) provides that all functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by any other enactment or by Regulations made under the 2000 Act.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the 2000 Regulations) gives effect to section 13 of the 2000 Act by specifying which functions:

- (a) are not to be the responsibility of Cabinet, as specified in Schedule 1 of the 2000 Regulations and as detailed in this Constitution; (Council Functions)
- (b) to be the responsibility of Cabinet (Executive Functions); and
- (c) may (but need not) be the responsibility of Cabinet (Local Choice Functions).

Only the Council has the discretion to decide which functions fall into (b) and (c) above. All other functions not so specified will be the responsibility of Cabinet.

### **23.2 Council Functions**

The functions of the Council are either:

- (a) those functions which are reserved as a Council Function by the 2000 Act and by subsequent enactments and regulations;
- (b) those functions which are reserved as Council Functions by Regulation 2 and Schedule 1 of the 2000 Regulations and subsequent regulations made under the Local Government Act 2000;
- (c) those functions set out in Regulation 3 and Schedule 2 of the 2000 Regulations 2000, unless otherwise stipulated; and
- (d) the plans and strategies whose adoption or approval shall be a Council Function (the “Budget and Policy Framework”), namely those plans and strategies set out in Schedule 3 of the 2000 Regulations, together with such other plans and strategies as the Council may identify from time to time for this purpose and as identified in Article 5.

The Council has determined that decisions relating to Council Functions shall be made in one of the following ways:

- (a) By one of the Council Committees listed in Article 8; or

- (b) By Officers, in accordance with the Officer Scheme of Delegation.

### **23.3 Executive Functions**

The Functions of the Cabinet are also known as the Executive Functions, and are:

- (a) those functions stipulated as an Executive Function by the 2000 Act and by subsequent enactments and regulations; and
- (b) all other functions shall be Council Functions.

Decisions in respect of Executive Functions shall be made in one of the following ways:

- (a) by the Cabinet;
- (b) by one of the Cabinet Committees listed in Article 6;
- (c) by an individual Cabinet Member, within their areas of responsibility and delegated powers;
- (d) an Officer, or
- (e) where the decision is outside the Budget and Policy Framework, by full Council following receipt of advice from the Cabinet collectively.

The following joint committees exercise Executive Functions in accordance with their terms of reference and the agreements currently in operation:

- (a) the North Essex Parking Partnership Joint Committee; and
- (b) the Essex Countywide Traveller Unit Joint Committee.

### **23.4 Local Choice Functions**

The Local Choice Functions are those, which may (but need not) be the responsibility of the Cabinet as set out in Schedule 2 of the 2000 Regulations, as determined by the Council.

The Council has determined that the Cabinet will be responsible for exercising the following Local Choice Functions in accordance with arrangements made by the Leader:

- (a) the conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999;
- (b) the appointment of any individual:
  - (i) to any office other than an office in which he is employed by the Council;
  - (ii) to any body other than:
    - the Council;



- a Joint Committee of two or more authorities;
- a politically balanced body; or
- to any Committee or Sub-Committee of such a body;

and the revocation of any such appointment; any such appointments must be notified for information to the Council; and

- (c) the making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.

The Council is responsible for all other Local Choice Functions.

## **24. Scheme of Delegations to Cabinet Members**

### **24.1 General Principles**

This scheme delegates powers and duties in relation to Executive Functions and Local Choice Functions which are the responsibility of the Cabinet to Cabinet Members.

This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the 2000 Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.

Executive Functions are delegated by the Leader under section 9J of the Local Government Act 2000 (as amended). References to 'the Regulations' are references to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

### **24.2 Functions Reserved to Cabinet**

Any Executive decision which will result in a recommendation or proposal to the Council shall only be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member or Officer.

Any decision falling within any of the following categories shall be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member, a Cabinet Committee or an Officer or under joint arrangements unless it is delegated to that Cabinet Member, Committee, and an Officer or under joint arrangements after consideration by the Cabinet:

- (a) a decision on a matter which is cross cutting and affects the area of responsibility of more than one Cabinet Member; or
- (b) a decision that the Leader has decided should be referred to the Council; or
- (c) a Key Decision as set out in Article 7.

### **24.3 Delegations of Executive Functions**

The delegations to Officers in respect of the Executive Functions of the Cabinet are set out in paragraph 25 below.

### **24.4 General Limitations of a Cabinet Member Decision**

Cabinet Members are not permitted to take a Key Decision.

Before taking a decision, a Cabinet Member shall receive advice from the appropriate officer and must take advice from the Monitoring Officer and Section 151 Officer.

Any exercise of delegated powers shall be subject to:

- (a) the Budget and Policy Framework approved by the Council;
- (b) the policies approved by the Cabinet from time to time
- (c) any statutory restrictions;
- (d) the Standing Orders of the Council;
- (e) the Financial Procedure Rules; and
- (f) the Procurement Procedure Rules.

Delegation of Executive Functions to a Cabinet Member does not include the functions reserved to the Council contained in Article 5, or the functions reserved to Cabinet contained in Article 6.

## **24.5 General Delegations to Cabinet Members**

In so far as required for the promotion of their Portfolio, the Cabinet Member may:

- (a) authorise officers to conclude any matter, process, or enter into any contract the undertaking of which, in principle, has previously been considered and authorised by Cabinet;
- (b) take non key Decisions;
- (c) approve the extension, or variation of contracts within their portfolio area providing that this is within the Financial Procedure Rules, Procurement Procedure Rules and the Budget and Policy Framework, and the extension or variation was provided at the point of the original award and is permitted under the terms of the Contract;
- (d) authorise a response by, or on behalf of the Council to consultations provided that;
  - (i) if the consultation raises issues of Council wide interest or significance it shall be referred to the Cabinet, or the appropriate Committee to agree a response; and
  - (ii) that if the consultation is concerned only with and calls for a response on matters of a technical professional nature, then Officers may deal with it without reference to a Cabinet Member;
- (e) agree appropriate fees and charges which are within the control of the Cabinet in consultation with the Corporate Director (Finance), providing that they are consistent with the Budget; and
- (f) make, update or change plans and strategies provided that those changes do not conflict with an approved policy, do not raise new issues of policy, are within the approved budgets and do not exceed any of the financial limits set out in the Financial Procedure Rules that are within their portfolio area, and do not relate to a matter which is reserved to the Council.

## **24.6 Further provisions**

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

This scheme operates from 19 April 2021.

Cabinet Members will be permitted to approve small amendments to policies falling within their portfolio provided that such change:

- (a) Is to bring clarity or remove ambiguity; and
- (b) Does not change the overall meaning of the policy.

All significant changes and those brought into effect as the result of changes to the relevant legislation must be referred to Cabinet for approval.

Cabinet Members shall consult their Cabinet colleagues on all strategically important issues, or issues that are cross over more than one portfolio.

## **24.7 Portfolios of Individual Cabinet Members**

Members appointed to the Cabinet will lead for the Cabinet in the areas shown and will exercise the functions delegated to them by the Leader. The roles encompass relations with external partners unless another provision is explicitly made.

All Executive Functions are, and remain, vested in the Leader.

These responsibilities are in addition to those set out in Article 4 and Article 6.

### **24.7.1 The Leader**

- Overall Vision and Strategic Direction
- Corporate Strategy
- Strategic Partnerships
- COVID 19 response
- Strategic Economic Growth
- Promotion of the District
- Communications
- External Relations
- Performance Management
- Investment and Development Programme
- Electoral Administration
- To exercise the executive functions of any Cabinet Member in their absence, in an emergency or in any other circumstance where the Leader thinks it is desirable to act on any matter.

### **24.7.2 Cabinet Member for Economic Growth and Deputy Leader**

- Economic Development Strategies & COVID Recovery
- North Essex Economic Board & Regional Partnerships

- Business Engagement and Support
- Employment Site Strategy
- Inward Investment
- Digital Connectivity
- Town Centre Renewal Strategies and Improvements
- Major Projects (Employment)

#### **24.7.3 Cabinet Member for Communities**

- Community Safety
- Welfare Reform
- Local Community Engagement
- Voluntary Sector
- Equality & Diversity
- Community Facilities and Support
- Community Transport
- External Funding
- Rural Communities
- Armed Forces Covenant
- Cycling Strategy
- Heritage Services
- Tourism

#### **24.7.4 Cabinet Member for Finance and Corporate Transformation**

- Medium-Term Financial Strategy
- Financial and Treasury Management
- Commercialisation and Income Generation
- Efficiency and Improvement Programme
- Customer Services
- Procurement
- Corporate Governance
- Member Support and Development
- HR and Organisational Development
- Health and Safety
- Risk Management
- ICT
- Digital Strategy

#### **24.7.5 Cabinet Member for Environment**

- Waste Minimisation and Recycling
- Street Cleansing and Parks
- Landscapes and Countryside
- Parking & Highways
- Licencing
- Building Control
- Environmental Health

- Climate Change and Sustainability
- Emergency Planning

#### **24.7.6 Cabinet Member for Health and Wellbeing**

- Health Improvement
- Health Partnerships
- Livewell Programme
- Emotional Health and Well-being
- Leisure Centres
- Sports Development
- Safeguarding
- Older People
- Children and Young People

#### **24.7.7 Cabinet Member for Housing, Assets and Skills**

- Housing Development
- Housing Strategy
- Homelessness
- Affordable Housing Delivery
- Major Projects (Prosperous District)
- Asset Management
- Enterprise Centre Portfolio and Strategy
- Skills & Education Improvement

#### **24.7.8 Cabinet Member for Planning and Infrastructure**

- Local Plan
- Development Management
- Planning Enforcement
- Landscape Services
- Infrastructure

## **25. Officer Scheme of Delegation**

### **25.1 General Principles**

This scheme authorises Officers to take decisions about the exercise of the Council's statutory functions. The Council wants its Officers to be empowered to manage the services entrusted to them.

This scheme applies to all of the Council's powers and duties derived from legislation or otherwise and all incidental powers and duties.

Officers identified in this document as exercising delegated powers will be politically restricted under s2(1)(g) of the Local Government and Housing Act 1989.

Where an Officer has delegated powers, the Council or Cabinet or their Committees (where appropriate) can still exercise that power in a particular case if it considers it appropriate to do so.

In exercising any delegated powers, Officers are expected to undertake consultation with Members and Officers as necessary, and shall have regard to any advice given.

Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.

Executive Decisions taken by Officers must be recorded as required by law and in accordance with the provisions in place by the Monitoring Officer. The Council has also agreed that all Council Decisions will be published in accordance with the provisions in place by the Monitoring Officer. In both instances the provisions set out in paragraph 15.23 must be followed.

An Officer may choose not to take a decision if they feel it is not appropriate for them to make a decision and may refer a matter to Cabinet or to the Cabinet Member (where these fall within the delegations set out above) for a decision.

Officers taking decisions are required to keep Members properly informed about relevant decisions.

All delegations to Officers are subject to:

- (a) statutory requirements;
- (b) the Constitution;
- (c) The Procurement Procedure Rules;
- (d) adherence of the Council's policies;
- (e) the requirements of the Chief Executive in relation to the day to day management and co-ordination of the Council; and
- (f) adequate financial provision having being made within the relevant budget for the likely financial consequences of any decision.

All the delegations within this scheme should be interpreted widely to aid the smooth running of the Council, the effective deployment of resources, the efficient delivery of services and the achievement of the Council's aims and ambition. For the avoidance of doubt, the following principles will also apply:-

- (a) the delegations included in this Scheme shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of the power, duty or responsibility;
- (b) where any new power is given to the Council which does not fall within this Scheme of Delegation, the exercise of that power shall be undertaken by the relevant Corporate Director or the Chief Executive until such time as the Council has allocated responsibility;
- (c) advice and guidance regarding this Scheme shall be obtained from the Monitoring Officer;
- (d) Where legislation specifically referred to in the Scheme is amended or replaced by new legislation and in the event that the powers contained in the new legislation are substantially the same as those which it replaces then it shall be deemed that the relevant authority delegated in the schedule applies as if the new legislation had been specifically referred to as regards that relevant authority.
- (e) Where the name of a post is changed, any delegated powers possessed by the post shall be retained by the renamed post.
- (f) Where a service area is restructured, the Chief Executive has authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer and shall also notify all Members and Heads of Service.
- (g) When a post is vacant, and an employee takes on the duties of the post in an "acting" capacity, they have the same delegated powers that they would have if they held the post.
- (h) The delegations under this scheme can be exercised by the relevant direct line manager if the post is vacant, the post holder is not at work for any reason, or the person who has delegated authority has a conflict of interest in a matter that prevents them from taking the decision.

## **25.2 Who can take decisions under this Scheme of Delegation**

This scheme may be delegated to another Officer of the Council to exercise delegated powers under a scheme of sub-delegations. The Monitoring Officer shall be notified of all sub-delegations and will maintain a record of them.

## **25.3 Decisions with Financial Implications of over £50,000**



This scheme does not authorise anyone other than the Chief Executive or a Corporate Director to take a decision on an Executive Function with financial implications which exceed £50,000.

Such a decision may only be taken after the Chief Executive or the Corporate Director has:

- (a) considered a written report; and
- (b) consulted the relevant Cabinet Member or in their absence, the Leader.

Nothing in this paragraph requires anything to be published if it includes exempt or confidential information, as set out in the Access to Information Procedure Rules.

## **25.4 General Limitations**

Officers may not take decisions on Executive Functions if the proposed decision is contrary to the Budget and Policy Framework. Any proposal to take a decision contrary to the Budget and Policy Framework must be the subject of a report to Cabinet who will make a recommendation to the Council.

Except as otherwise stated, no Officer may take a Key Decision.

Other than as set out below, this scheme does not authorise:

- (a) Officers to change fees, charges or concession policies, except;
  - (i) Officers may apply inflationary increases to fees, charges and concession policies;
  - (ii) Officers may determine fees for one off events or activities; and
  - (iii) Officers may determine the fees to be charged to other public bodies for services which the Council provides on a commercial or full-cost recovery basis.
- (b) Officers to make a compulsory purchase order;
- (c) the acquisition of an interest in land in anticipation of future requirements;
- (d) the confirmation of any order or grant of any permission, consent or licence or other determination where any response is received expressing opposition to the proposed course of action (unless stated);
- (e) any officer of the Council who is not a permanent employee to make any decision with financial implications in excess of £25,000;
- (f) the contravention of policies or strategies approved by Council or Cabinet;
- (g) Create or approve new policies and strategies which relate to the service delivery; or
- (h) Take decisions to withdrawn a service.

Authorisations are subject to any restrictions and limitation identified.

Any delegated power given to the Monitoring Officer or the s.151 Officer in relation to their statutory duties may only be exercised in their absence by their appointed deputies.

## **25.5 General Delegations**

All Officers listed in paragraph 25.7 have delegated authority to exercise any of the Council's functions and powers so far as it is necessary or conducive to do so in order to provide any service for which they have management responsibility. This includes, but is not limited to:

- (a) To act as the proper officer for all statutory purposes unless otherwise determined by this Constitution;
- (b) Commencing a procurement exercise in accordance with the Procurement Procedure Rules, provided the contract value is within the approved Budget;
- (c) entering into contracts, in accordance with the Procurement Procedure Rules and the Financial Procedure Rules;
- (d) implementing a policy or decision previously approved or taken by the Council, a Committee, the Cabinet or a Cabinet Member;
- (e) doing anything to facilitate or which is incidental to the implementation of such a policy or decision;
- (f) serving any Notice, Fixed Penalty, Abatement Notice or making any Order, but the instigating of proceedings shall be reserved to the Head of Governance;
- (g) authorising other officers to take any other steps necessary for or conducive to the performance of any such powers;
- (h) apply for any third party funding which are relevant to their service areas;
- (i) provide consultation responses to any Government White Paper or Green Paper, or any other consultation likely to lead to a policy change or impact upon service; where the response is of a technical professional nature; and
- (j) To grant, renew, refuse or cancel any authorisation that may be required under the Regulation of Investigatory Powers Act 2000. This power may only be exercised by those Corporate Directors or Heads of Service who have investigating officers in their service area or by the Monitoring Officer, the Deputy Monitoring Officer or the Chief Executive.

## **25.6 The Corporate Directors General Delegations**

In addition to the specific delegations set out below, the Corporate Directors shall have the following authorisation where it is necessary in accordance with any statutory provision or is relevant to their functional area:

- (a) be permitted to authorise relevant staff to exercise powers of entry over land and buildings (including where relevant residential land).
- (b) be entitled to utilise all legislation relevant to their functional area which enables the enforcement of the Councils policies and procedures, or which protects life, health, safety, welfare, the environment or economic interests.
- (c) will participate in the corporate management of the Council, and will direct and manage those services and resources as are allocated to them by the Chief Executive ensuring the most efficient and effective delivery in support of the Council's corporate goals in order that the Council meets its statutory obligations in these areas.
- (d) Purchase of vehicles, plant and equipment for which expenditure falls within the approved budget and in accordance with the Financial Procedure Rules and Procurement Procedure Rules. But if the purchase involves a leasing arrangement such arrangement must be approved by the Section 151 Officer.
- (e) Hire of plant subject to inclusion of cost of hire within approved Budgets;
- (f) Disposal of surplus plant, equipment and materials.
- (g) Authority to incur expenditure within approved capital and revenue budgets.
- (h) Fixing of charges for work for external bodies where the charges are not prescribed by legislation.
- (i) Service of requisitions for information as to ownership of, or other interests in, any land or property under statutory powers.
- (j) Service of requisitions for information under the Crime and Disorder Act 1998.
- (k) The release of Council held information under the Data Protection Act 2018, Freedom of Information Act 2000 and the Environmental information Regulations 2004, and related frameworks subject to consultation with the Monitoring Officer on any application of exemptions.
- (l) To sign Statements of Truth under the Civil Procedure Rules 1998 on behalf of the Council; and
- (m) Authority to apply for planning permission in respect of small projects and minor modification to projects.

## **Human Resources**

Further, the Corporate Directors shall exercise the following human resource responsibilities as appropriate to their relevant service area;

- (a) Appointment of agency staff provided costs are contained within service budgets.
- (b) To undertake a recruitment process for any vacant position, in accordance with procedures established by the HR Team;
- (c) Appointment of Heads of Service and below;
- (d) To agree flexible contracts and working patterns including job share, home working and term time working (in line with agreed policy).
- (e) To confirm appointments on completion of probationary period.
- (f) To implement the Council's employment procedures in line with agreed Council policy.
- (g) To authorise officers to attend professional or educational meetings, conferences or courses in consultation with the HR Manager.
- (h) Authorising of on-going training and individual qualification training courses subject to consultation with the HR Manager.
- (i) To agree unpaid leave of absence and compassionate leave in line with agreed policy.
- (j) Granting of contractual salary progression within career-graded posts in line with agreed Council policy and in line with agreed policy.
- (k) To approve revised job descriptions and job titles where no grading increase is involved in line with agreed policy.
- (l) The general organisation of services within the policies laid down by the Council; and
- (m) Subject to consultation and in line with agreed policy and budgets to determine new organisation structures below Head of Service.

### **25.7 Specific Officer Delegations**

In addition to the General Delegations the Officers specified below have the following Specific Delegations.

#### **25.7.1 To the Chief Executive**

- (a) To act as the Head of the Paid Service for the purposes of section 4 of the Local Government and Housing Act 1989 and to make any decision which the Council may make as an employer.
- (b) To determine and publish the management structure of the Council.

- (a) Overall corporate management and operational responsibility (including overall management responsibility for all officers);
- (b) To act as the Councils Co-ordinator and to incur expenditure in the event of a civil emergency;
- (c) To determine the level of any performance pay to be awarded to Officers and recommend any level of performance pay to be awarded to Corporate Directors.;
- (d) Responsibility for promoting and maintaining probity in all of the Council's activities;
- (g) Representing the Council on partnerships and external bodies as required by Council or by statute;
- (h) Be the Electoral Registration Officer and the Local Government Returning Officer and to be empowered in relation to all electoral matters, including taking urgent decisions that may arise during the pre-election period. Any decision taken will be reported to Cabinet at the next available meeting after the elections have completed;
- (i) Be able to exercise all the powers delegated to the Corporate Directors unless there is a legal or professional impediment;
- (j) Take urgent decisions in respect of non- executive function which is considered necessary to protect the interests of or for advancing the business of the Council. In those circumstances, the Chief Executive is authorised to take urgent decisions following consultation with the Chairman (or Vice Chairman) of Council in respect of non-executive functions. All urgent decisions will be reported to the next appropriate meeting of Council.
- (k) In the absence of the Leader, or their absence the Deputy Leader, to take urgent Executive decisions, including a key decision, in accordance with the urgent procedure set out in the Access to Information Procedure Rules;
- (l) To exercise in the case of urgency the functions delegated to anyone under this scheme of delegation (but this does not authorise the Chief Executive to discharge the personal responsibility of the Chief Finance Officer under section 151 of the Local Government Act 1972 or the Monitoring Officer under section 5 of the Local Government and Housing Act 1989);
- (m) The Council's powers to take any action with respect to the Commissioner for Local Administration.
- (n) the transfer of staffing budgets allocated to a particular service area to another service area in any service grouping after notifying the Section

151 Officer and the Cabinet Member for Finance and Performance Management.

- (o) To publish information about Council services on the internet and decide whether or not to link sites.
- (p) In consultation with the relevant Cabinet Member, Leader of the Council and Section 151 Officer to apply for funding from any third party for the purposes of the regeneration of Braintree.

### **Deputising for the Chief Executive**

No one officer shall have a general authority to act as deputy or assume any of the duties and responsibilities of the Chief Executive. Instead, in the absence of the Chief Executive any one of the Corporate Directors (except for the Corporate Director (Finance)) will have the authority to assume the duties and responsibilities of that post; in any given circumstances, the Corporate Director most qualified and appropriate to do so will perform the function(s) or take the required decision(s).

### **25.7.2 Corporate Director (Operational)**

- (a) To be responsible for the following Service Areas:
  - Operations
  - Housing and Community Services
  - ICT & Facilities
  - Environment, Leisure and Health
- (b) To deal with all matters arising out of the Scrap Metal Dealers Act 2013, including the determination of all unopposed applications, variations and revocations;
- (c) To exercise the Council's powers with respect to the provision, maintenance and development of the Council leisure and tourism functions;
- (d) To exercise all powers under the Licensing Act 2003; other than those reserved to the Council or the Licensing Committee, as set out in Appendix B and in accordance with the Statement of Licensing Policy 2021-2026;
- (e) To exercise all powers under the Gambling Act 2005 other than those reserved to Council or to the Licensing Committee; and in accordance with the Gambling Licensing Policy Statement 2019 – 2022 and as set out in Appendix A;
- (f) To exercise all powers under the Animal Welfare Act 2006, the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 and any subsequent regulations made under them for the purpose of animal licensing; other than those reserved to the Council or the

Licensing Committee, as set out in Appendix C;

- (g) To appoint Inspectors and Authorised Officers under any legislation;
- (h) The authority to comment upon and represent the Council on applications for Goods Vehicle Operator Licences
- (i) The grant of licenses of hackney carriages and drivers, private hire vehicles, operators and drivers in accordance with agreed policy;
- (j) Responsibilities relating to street trading under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 subject to it being considered by the Licensing Committee where a valid representation or objection is made and not withdrawn.
- (k) Delegation of all regulatory functions specified in Legislation and Regulations in respect to Environmental Health, Health & Safety and Food Safety.

### **25.7.3 Corporate Director (Finance)**

- (a) To be responsible for the following Service Areas:
  - Finance
  - Governance
  - Human Resources and Officer Learning & Development
  - Marketing & Communications
- (b) To deal with all matters and to exercise all discretions relating to the determination, administration and collection of non-domestic rates and Council Tax which are not reserved to Members, including the setting of the Council Tax Base under the Local Authorities (Calculation of Tax Base) Regulations 1992.
- (c) To discharge the Council's functions relating to Council Tax and Housing Benefit, including measures to combat fraud.
- (d) To be responsible for all treasury management matters including the borrowing of money, management of investment funds, banking arrangements and to act in accordance with the CIPFA's Code of Practice on Treasury Management in Local Authorities
- (e) To pay salaries, wages, honoraria and other gratuities.
- (f) Write off bad debts – unlimited value when by reason of insolvency and in accordance with the limits set out in the Financial Procedure Rules for all other reasons.

- (g) To maintain an adequate and effective system of internal audit, as required under the Accounts and Audit Regulations 1996.
- (h) To sign any financial forms required by the External Auditor or Government department, including from NNDR 1
- (i) To deal with all insurance matters, including the settlement of insurance claims.
- (j) To waive requirements within the Procurement Procedure Rules for specific projects in accordance with the provisions set out in the Procurement Procedure Rules;
- (k) To exercise the Councils function under the Freedom of Information Act 2000 and all Data Protection Legislation, and the Environment Information Regulations Act 2004; and
- (l) To be the Councils assigned Senior Information Risk Owner (SIRO).

#### **25.7.4 Corporate Director (Growth)**

- (a) To be responsible for the following Service Areas:
  - Planning & Economic Development
  - Strategic Investment
  - Asset Management
- (b) To exercise the Councils statutory functions as a Local Planning Authority, in accordance with the provisions set out in Appendix D.
- (c) To represent the Council for all planning and enforcement appeals, except where the Council has refused an application contrary to their recommendation. In such cases to shall act in an advisory capacity to a nominated Member(s) this may at their discretion include the obtaining of additional support by way of professional advice.
- (d) To exercise the Councils powers to accept land, where the land is or is to be transferred to the Council under planning obligation or for another planning purpose.
- (e) The serving of Building Preservation Notices
- (f) Authority to issue Enforcement Notices, Breach of Condition Notices, Listed Building Enforcement Notices, Conservation Area Notices, Stop Notices, Requisitions for Information, Planning Contravention Notices under the Town & Country Planning Act 1990 as amended and Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for all breaches of planning legislation in accordance with the Council's adopted Enforcement Policy.



- (g) To enforce the unauthorised display of advertisements, unauthorised works to a listed building, breach of tree preservation or Hedgerow Regulations, non-compliance where enforcement action has previously been authorised.
- (h) Authority to vary steps required to comply with enforcement notices already authorised, including altering period required for compliance, service of further notices and withdrawal of notices.
- (i) To exercise the Councils functions in relation to Neighbourhood Planning, in consultation with the relevant Cabinet Member for Planning and Local Ward Members to;
- (i) Designate a Neighbourhood Plan Area;
- (j) Agree Modifications to a Neighbourhood Plan contained within an Independent Examiners Report; and
- (j) To send a Neighbourhood Plan to referendum.

#### **25.7.5 To the s.151 Officer**

- (a) All functions relating to local government pensions;
- (b) Duty to take all steps that are considered appropriate for the proper administration of the financial affairs, of the Council; and
- (c) To amend the Financial Procedure Rules or the Procurement Procedure Rules where there has been a change of law, rearrangement of responsibilities or to correct an administrative error, in consultation with the Monitoring Officer. Any change made must be notified to all Members as soon as possible.

#### **25.7.6 To the Monitoring Officer**

- (a) To interpret, review, update and publish the Councils Constitution in accordance with Article 1.
- (b) To receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Corporate Governance and Audit Scrutiny Committee and the Standards Sub-Committee thereon, in accordance with the Code of Conduct Complaints Policy;
- (c) To grant applications for dispensations to Members with respect to their or their spouse's interest which arises as a result of membership of another public body;
- (d) To grant dispensations under the Code of Conduct or the Localism Act 2011;

- (e) The power to determine whether any particular claim for payment under the Members Allowances Scheme is in order;
- (f) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council and to determine whether a document should be sealed by the affixing of the Common Seal.
- (g) To attest the affixing of the Council's Common Seal;
- (h) To sign on behalf of the Council any document authorised by the Council or which is necessary or desirable to give effect to any decision of the Council.
- (i) To issue certificates of opinion in connection with politically restricted posts.
- (j) To issue certificates for Major Projects under the Local Government (Contracts) Act 1997.
- (k) Responsibility for a system of record keeping for all the Council's decisions;
- (l) To be responsible for the Council's engagement with the Independent Remuneration Panel and the Independent Person
- (m) The maintenance of records of all interests given by any Member of the Council;
- (n) The provision of publication of the Council's decision-making process and individual decisions.
- (o) The provision of facilities for Councillors.

## **25.8 Specific Delegations to Heads of Service or Equivalent**

### **25.8.1 To the Head of Governance**

- (a) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant Corporate Director (Finance) before a settlement of any employment tribunal proceedings.
- (b) To approve the settlement of any claims brought against or by the Council up to a maximum sum of £30,000, in consultation with the S.151 Officer in any one case and provided that if the settlement amount is not included in any existing budget provision, then the Cabinet Member for Finance and Performance Management must also be consulted.

- (c) To service any notice required to terminate any contract, agreement or lease entered into any the Council, including notices to vary any terms of such contracts, agreements or leases.
- (d) To authorise officers of the Council to appear in courts or tribunals where permitted by law.
- (e) To instruct Counsel and external solicitors on any matters likely to affect the interests of the Council;
- (f) To sign and serve any statutory or legal notice in accordance with any statutory powers or any functions of the Council and to place any public notice that the Council is required to do in law;
- (g) To sign on behalf of the Council any document, Contract, Agreement, or Lease authorised by the Council or which is necessary or desirable to give effect to any decision of the Council.
- (h) To sign statements of truth in accordance with the Civil Procedure Rules;
- (i) To sign indemnities and provide solicitor undertakings where they are required to enable the Council to exercise any of its functions, provided that where the giving of an indemnity or undertaking could have considerable financial implications, the Cabinet Member for Finance and Performance Management and the Corporate Director (Finance) shall be required to give their approval.
- (j) take any steps to collect any debt owed to the Council.
- (k) To administer the register of Local Land Charges, carry out official searches and to respond to enquiries of local authorities;
- (l) To exercise the functions of the Council in respect of the arrangements for convening of meetings of Council, Cabinet and their committees, and the preparation of a programme of meetings of the council, the Cabinet and their Committees.
- (m) In consultation with the Chairman of the Licensing Committee be authorised to adjourn a Licensing Hearing in accordance with the Licensing Act 2003 (Hearing) Regulations 2005
- (n) To exercise powers to extend the time limits set out within the Licensing Act 2003 (Hearing) Regulations 2005.
- (o) In consultation with the Chairman or Vice-Chairman of the Licensing Committee be authorised to suspend Hackney Carriage and/or Private hire Drivers licences under Section 61 of the Local Government (miscellaneous Provisions) Act 1976 (as amended) immediately, if in their opinion it is the interest of public safety that the suspension should

have immediate effect, such suspension to last until the day after the next meeting of the Drivers' Panel.

## APPENDIX A – Gambling Act 2005

	Matter To Be Dealt With	Full Council	Licensing Committee	Corporate Director	Head of Service
a.	Three year Licensing Policy review	<i>All cases</i>			
b.	Fee Setting – when appropriate	<i>All cases</i>			
c.	Authority to make minor amendments to the Gambling Act policy statement in conjunction with the Chairman of the Licensing Committee				All cases
d.	Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn	
e.	Application for a Variation to a Licence		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
f.	Application for a Transfer of a Licence		Where representations have been received from the commission	Where no representations have been received from the commission	
g.	Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
h.	Authority to make representations to all applications on behalf of the Licensing Authority		All cases		All cases
i.	Authority to attach conditions, where relevant, to Premises Licences			<i>All cases</i>	
j.	Authority to refuse applications for Premises Licences			<i>All cases</i>	

k.	Authority to process applications for Temporary Use Notices		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
l.	Authority to process applications for Club Gaming and Club Machine Permits		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
m.	Authority to issue permits for more than 2 machines in Licensed Premises			<i>All cases</i>	
n.	Authority to process application for other Permits			<i>All cases</i>	
o.	Cancellation of Club Gaming/ Club Machine Permits		<i>All cases</i>		
p.	Cancellation of Licensed Premises Gaming Machine Permits			<i>All cases</i>	
q.	Review a Premises Licence		<i>All cases</i>		
r.	Determination as to whether a person is an Interested Party			<i>All cases</i>	
s.	Determination as to whether representations are relevant			<i>All cases</i>	
t.	Determination as whether a representation is frivolous, vexatious or repetitive			<i>All cases</i>	
u.	Consideration of Temporary Use Notice			<i>All cases</i>	
v.	Decision to give a counter notice to a Temporary Use Notice		<i>All cases</i>		
w.	Consideration of an Occasional Use Notice			<i>All cases</i>	

## APPENDIX B – Licensing Act 2003

	Matter to be dealt with	Full Committee	Sub Committee	Corporate Director (Operations) or Officer holding delegated authority.
a.	Application for personal licence		If a police objection	If no objection made
b.	Application for personal licence with unspent convictions		All cases	
c.	Application for premises licence/Club Premises Certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
d.	Application for provisional statement	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
e.	Application to vary premises licence/club premises certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
f.	Application to vary designated premises supervisor		If a police objection	All other cases
g.	Request to be removed as designated premises supervisor			All cases
h.	Application for transfer of premises licence		If a police objection	All other cases
i.	Applications for interim Authorities		If a police objection	All other cases
j.	Application to review Premises licence/club premises certificate		All cases	
k.	Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
l.	Decision to object when local authority is a		All cases	

	consultee and not the relevant authority considering the application			
m.	Determination of an objection to a temporary event notice		All cases	
n.	Determination of application to vary premises licence at community premises to include alternative licence condition			All cases
o.	Decision whether to consult other responsible authorities on minor variation application			All cases
p.	Determination of minor variation application			All cases



## APPENDIX C - Animal Welfare Licensing

	Matter to be dealt with	Council	Licensing Committee	Officers
a.	Setting of Fees and Charges	In all cases		
b.	Adoption of Policy		In all cases	
c.	Grant or renewal of a license to carry on a licensable activity			Corporate Director
d.	Transfer of a license in the event of the death of the license holder			Corporate Director
e.	Suspension, Variation or revocation of a license			Corporate Director
f.	Receipt of representations against the suspension, variation or revocation of a licence			Corporate Director
g.	Service of a Notice			Corporate Director
h.	Appointment of suitably qualified inspectors			Corporate Director
i.	Appeal of a risk rating score			Head of Environment, Leisure and Health

## APPENDIX D: PLANNING SCHEME OF DELEGATION

### A. Applications to be referred to Planning Committee for determination

(Notwithstanding Town/Parish Council Representation, member Call In or number of representations from Local Residents)(to be presented by Officers and debated by Members at Planning Committee):

- (a) Major Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for residential development comprising 10 or more proposed houses or commercial development (including changes of use) comprising floorspace of 1,000sq.m, including any linked application for Listed Building Consent<sup>1</sup>.
- (b) Major or Minor Planning Applications for Renewable Energy Schemes, including solar, wind and bioenergy projects, and proposals for Anaerobic Digestion Plants.
- (c) Where the Applicant is Braintree District Council.
- (d) Where the Applicant is an employee or Member of Braintree District Council.
- (e) Where the Applicant or Agent is related to an employee within the Planning Department (Development Management or Planning Policy) (change from Braintree District Council<sup>2</sup>) or a Member of Braintree District Council.
- (f) Any application which is deemed to be 'significant' by the Planning Development Manager.

### B. Applications which can be determined under Delegated Powers which may be subject to referral to Chair's Briefing as a result of Town/Parish Council representation, Member Call In or representations from Local residents:

Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval, Full Planning Permission or permission in Principle) for residential development comprising 3-9 proposed houses, including any linked application for Listed Building Consent, **Unless:**

- (i) Either the Town or Parish Council's view is contrary to the Officer Recommendation; or
- (ii) the application has been 'Called In' for determination by a BDC Member by the end of the specified consultation period and is accompanied by planning reasons for why the application should be referred to Planning Committee for determination; or
- (iii) 6 or more valid planning representations from separate households have been received;

#### **Then:**

The application shall be referred to Chair's Briefing, with the Chair and Vice Chair of the Planning Committee, who will consider whether the application should be referred to the Planning Committee for determination, except if a previous application for the same or substantially the same application site has been refused planning

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<sup>1</sup> For Members information only, currently the Government define a major residential development to be 10 units or more or sites 0.5ha or more and for non-residential development is where additional floorspace of 1,000sq.m or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015, **however for the purposes of the Scheme of Delegation only the 10 units or more and 1000sq.m floorspace thresholds will be utilised to define a Major Planning Application and not the site area definitions.**

<sup>2</sup> We currently have one agent who is related to a Member of BDC staff and as a result, all of his applications are reported to Planning Committee.

permission under Delegated Powers or by the Planning Committee where the proposal is deemed to be 'similar' to the previously determined application by the Planning Development Manager.

**C. Applications which can be determined under Delegated Powers**

(Notwithstanding Town/Parish representation, member Call In or number of representations from Local Residents)

- (a) Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval, Full Planning Permission or Permission in Principle) for residential development comprising 1-2 proposed houses, including any linked application for Listed Building Consent.
- (b) All Section 73 applications to vary or remove planning conditions, including seeking minor material amendments, associated with any previous consent (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for 'Major', 'Minor', or 'Other' Planning Applications.
- (c) Minor Planning Applications for replacement dwellings.
- (d) Minor Planning Applications for agricultural workers dwellings (temporary or permanent).
- (e) Minor Planning Applications for any other commercial development or change of use.
- (f) All of the following Application Types\*:

<b>Application Type</b>	<b>Description</b>
<b>ADV</b>	Applications for Advertisement Consent
<b>AGR</b>	Agricultural Prior Approval
<b>ALT</b>	Certificate of Alternative Appropriate Development
<b>AREM</b>	Agricultural Reserved Matters
<b>CLPLB</b>	Certificate of Lawfulness for Works to a Listed Building
<b>COMPA</b>	Commercial Extensions Prior Approval
<b>COUPA</b>	Applications for Prior Approval (All)
<b>DAC</b>	Application for Approval of Details reserved by condition following grant of planning permission or a listed building consent
<b>ECCDAC</b>	Consultation on Essex County Council Discharge of Conditions Applications
<b>ELD</b>	Application for a Certificate of Lawfulness for an Existing Use or Development
<b>FPO</b>	Footpath Order
<b>GOV</b>	Development by Government Department
<b>HDG</b>	Hedges
<b>HH</b>	Householder Application for Planning Permission
<b>HHPA</b>	Householder Extensions Prior Approval
<b>LBC**</b>	Application for Listed Building Consent for alterations, extensions or demolition of a listed building
<b>LDOCC</b>	Local Development Order Compliance Checklist
<b>NMA</b>	Application for a Non-Materials Amendment following a grant of planning permission

<b>OHL</b>	Overhead Electricity Lines
<b>P14JPA</b>	Prior Approval – Part 14, Class J
<b>P3RNOT</b>	Notification – Part 3, Class R
<b>PDEM</b>	Prior Approval for Demolition
<b>PLD</b>	Application for a Certificates of Lawfulness for a Proposed Use or Development
<b>S106A***</b>	S106A to modify or discharge S106
<b>SCO</b>	EIA Scoping Opinion
<b>SCR</b>	EIA Screening Opinion
<b>T56</b>	Telecoms 56 Day Notification
<b>TDC</b>	Technical Details Consent
<b>TEL</b>	Telecommunications General
<b>TMPCOU</b>	Temporary Change of Use
<b>TPO</b>	Works to Protected Trees (subject to a TPO)
<b>TPOCON</b>	Works to Trees within a Conservation Area

\*Application Types – The list of application types suitable for delegation may be updated to include any new prior approval or notification application types introduced by the Government.

\*\*LBC – Except where the Listed Building Consent application has been submitted in connection with an application considered under Part ‘A’ or Part ‘B’.

\*\*\*S106A – Where significant modifications are proposed to a Section 106 Agreement, the Planning Development Manager will consider whether the application is deemed to be ‘significant’ and therefore whether it should be referred to Planning Committee for determination under Part ‘A’ of the Scheme of Delegation.

### **Consultations on Essex County Council Applications or Out of District Applications<sup>3</sup>**

Consultation Responses which can be determined under Delegated Powers, following referral to the Cabinet Member for Planning:

<b>Application Type</b>	<b>Description</b>
<b>ECC</b>	Consultation on Essex County Council Applications <sup>3</sup>
<b>ODC</b>	Out of District Consultation

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<sup>3</sup> As the majority of these applications are for smaller scale development, Development Management could notify the Cabinet Member for Planning on receipt of the consultation and await confirmation of whether a response could be issued by Officers, or if a draft response should be prepared for review and approval, prior to issue.



## **THE PROCUREMENT PROCEDURE RULES**

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## **1. OVERVIEW**

### **1.1 Introduction**

These Procurement Procedure Rules (PPR) (issued in accordance with section 135 of the Local Government Act 1972) govern the way the Council undertake its tender process, awards Contracts and undertakes its contract management.

All Council procurements must be undertaken in the best interests of the Council, in accordance with good practice and be able to demonstrate:

- (a) true and fair competition;
- (b) public accountability;
- (c) an open, fair and transparent process;
- (d) adherence to processes and procedures which seek to prevent bribery and corruption.

Throughout the procurement process, the Council must be able to demonstrate that actions undertaken are in accordance with these PPRs and have a full audit trail which supports this requirement. Adherence to these PPRs will help to ensure that the Council is able to robustly defend against any challenge to its procurement process.

For ease, definitions of key words are set out in the Definitions Appendix.

All costs referred to in these PPRs are exclusive of VAT.

In addition to these PPRs, Officers are required to comply with, the Council's Financial Procedure Rules which are part of the Council's Constitution.

### **1.2 Application**

These PPRs govern all Relevant Contracts (as defined in paragraph 2.1) across the whole Council regardless of value, to ensure that the Council purchases these in accordance with the all relevant legislative provisions. Specifically, the principals of equal treatment, transparency, non-discrimination and fairness enshrined in the Public Contracts Regulations 2015 (the Regulations) or such other relevant legislation in force from time to time.

If there is a conflict between these PPRs and any other regulation or procedure rules made by the Council then these PPRs will prevail.

For the avoidance of doubt any UK law relating to tendering or Contracts will prevail over these PPRs if there is a conflict and Officers must comply with all legal requirements and directives in effect at that time.

### **1.3 Compliance**

Each Officer is responsible for ensuring compliance with these PPRs, the Financial Procedure Rules and all applicable legislation. They must ensure that procurement requirements are appropriately planned, reported, monitored and awarded.

All employees and Consultants engaged in the procurement of any works, goods or services for the Council must comply with these PPRs.

All Council spend must comply with these PPRs, any deviations from this process must be approved by Procurement first and then the Corporate Director (Finance) in accordance with paragraph 3.10, before commencement of any procurement activity.

For all procurements over the UK threshold, undertaken by the Council, Officers must ensure that they have engaged with Procurement at the outset, to agree the procurement route and to add the project to the Council's procurement pipeline.

The Officer must ensure that all necessary legal, financial and other professional advice is obtained prior to and during the procurement process and is carried into effect.

For the purposes of these PPRs, where there is a requirement for all communications to be in writing, this can include e-mail.

In undertaking a procurement exercise all Officers must:

- (a) Ensure they are familiar with and adhere to the Council's Procurement Strategy, the Council's procurement principles and all other requirements and associated guidance issued by the Council from time to time.
- (b) Keep the records required by the PPRs.
- (c) Establish whether there is an existing Corporate Contract that can be utilised before undertaking a new procurement process.
- (d) Ensure that any Value for Money review is undertaken together with an appraisal of the purchasing need before commencing the process.
- (e) Confirm that there is approval for the expenditure and the purchase accords with the approved Budget and Policy Framework and scheme of delegation as set out in the Constitution;
- (f) Define the objectives of the purchase;
- (g) Assess the risks associated with the purchase and how to manage them.
- (h) Consider what procurement method is most likely to achieve the purchasing objectives, and
- (i) Ensure that any Agents, Consultants and Contractual partners acting on behalf of the Council (if required and approved for use) also comply with these PPRs;
- (j) Allow not less than four weeks for the submission of Tenders unless alternative timescales are prescribed by domestic legislation or on grounds of extreme urgency
- (k) Declare any conflict of interest in relation to any Contract and take the appropriate steps thereafter including ceasing to be involved in the procurement and seeking advice from the Monitoring Officer
- (l) Ensure that all bids are kept confidential.
- (m) Ensure the evaluation is carried out in an unbiased way
- (n) If the purchase is a Key Decision as defined in the Constitution, ensure all appropriate steps have been taken;
- (o) Ensure that at the end of the procurement process there is a written Contract in

place signed or sealed by all parties and ensure that a Purchase Order, which has been approved, is issued to the supplier before the commencement of the services under the Contract.

- (p) Ensure that records of any dealings with suppliers are created and maintained.
- (q) Appraise each Contract as part of the ongoing review process to ensure that the purchasing need and Value for Money requirements are met.

Non-compliance with PPRs may constitute grounds for disciplinary action or an investigation being instigated under the Member Code of Conduct.

#### **1.4 Corporate Director (Finance)**

The Corporate Director (Finance) shall ensure that an up to date register is kept of:

- (a) all Contracts over £5,000, entered by the Council and arrange their safekeeping;
- (b) identified risks for any Contract with a value of over £100,000; and
- (c) all waivers (exemptions).

#### **1.5 Conflicts of Interest**

All Officers, Consultants and Members must avoid any conflict between their own interests and the interests of the Council, this includes: but is not limited to:

- (a) not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;
- (b) not working for, or having a pecuniary shareholding in organisations or suppliers that the Council has dealings with;
- (c) notifying the Monitoring Officer and relevant Head of Service if they have links with (e.g. they previously worked for, or a family member or close friend works for) an organisation or supplier who is tendering or quoting for a Contract with the Council or already has a Contract with the Council.

A Member, Officer or Consultant that has an interest, financial or otherwise, in a Contract or proposed Contract, must declare it in writing to the Monitoring Officer as soon as they become aware of the interest.

A Member, Officer or Consultant who has an interest in a Contract must not take part in the procurement or management of that Contract.

The Monitoring Officer must maintain a record of all declarations of interest notified by elected Members, Officers and Consultants.

#### **1.6 Prevention of Bribery and Corruption**

Where evidence suggests inappropriate action or events have occurred, a Contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on their behalf (with or without the supplier's knowledge):

- (a) offers or promises, or gives a financial, or other advantage, to any elected Member

of the Council, any Officer or any Consultant in connection with the Contract; or  
(b) requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the Contract is performed improperly.

A declaration to this effect must be obtained from the supplier, included in the ITT or ITQ, where one is used as part of the procurement process, and must be contained within the final Contract.

Any elected Member, Officer or Consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the improper acts referred to above, must report that to the Monitoring Officer immediately.

## **1.7 Transparency**

### **Publication of opportunities**

All opportunities must be advertised as required under the Local Government Transparency Code and all other transparency requirements set out in PPNs and the Regulations.

### **Award publication**

For all procurements of a value of £25,000 and above, an award notice must be published on Contracts Finder, or in accordance with the provisions of the relevant framework.

For all procurement over the relevant UK Threshold, the requirements to publish award notices must comply with including required timescales.

### **Local Government Transparency Code 2015 (the Code)**

The Local Government (Transparency Requirements) (England) Regulations 2015 regulates the Code, which requires all local authorities in England to publish, amongst other things, information related to the following themes:

- expenditure over £500;
- government procurement card transactions;
- procurement information; and
- grants to voluntary, community and social enterprise organisations

The Local Government Association has produced a set of practical guidance documents to support local authorities in understanding and implementing the Code and to help them publish the data in a meaningful and consistent way. These are available on the Local Government Association's website.

## **2. CONTRACT ARRANGEMENTS**

### **2.1 Relevant Contracts**

All Relevant Contracts must comply with these PPRs.

A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- (a) the supply of goods
- (b) the carrying out of works
- (c) the hire, rental or lease of goods or equipment
- (d) the delivery of services, including (but not limited to) those related to:
  - (i) the recruitment of staff
  - (ii) financial and consultancy services; and
  - (iii) concession contracts.

A Relevant Contract does not include:

- (a) Contracts relating to employment that make an individual a direct employee of the Council;
- (b) Agreements regarding the acquisition, disposal or transfer of any interest in land (for which Financial Procedure Rules and general law shall apply);
- (c) Sponsorship agreements; or
- (d) Supply of works, goods and services by the Council or one of its public sector partners. However, the Monitoring Officer must be consulted where the Council is contemplating this route.

## **2.2 Corporate Contracts**

The Council has adopted a strategy of using Corporate Contracts to deliver common, regular, routine, group-able requirements.

Where the Council has routine spend associated with the practical delivery of Council services, e.g. stationery, utilities, printing, etc., these are to be consolidated into single Corporate Contracts, managed by an agreed department, in the best interests of the whole Council.

Where the Council holds a Corporate Contract, this Contract must be used to satisfy the Council's requirements unless expressly agreed by Procurement and the Monitoring Officer.

When procuring a Corporate Contract, managed by a centralised resource, without a specific, identifiable budget, the procurement must be approved by way of a Key Decision approval process.

## **2.3 Purchase Orders and Supplier Payments**

All Council spend must have a valid purchase order raised and approved in accordance with the Council's financial management systems before delivery of the works, goods or services commence. The Council has in place a policy of 'no purchase order no payment', unless in exceptional circumstances.

The Council standard supplier payment terms are 30 days from the receipt of a valid invoice. No other terms can be agreed with a supplier without the agreement of the Head of Finance.

## **2.4 Purchase and E-Procurement Cards**

The Council operates a Credit card facility; these are available, with the approval of the Head of Service and Head of Finance.

Credit cards are to be used for low value or one-off incidental spend where it is not efficient to add the suppliers to the Councils finance management system. Procurement holds the main card for this type of spend.

Purchase cards must not be used to bypass Corporate Contracts without the express permission of the Head of Finance.

The principle of disaggregation applies to spend on purchase cards both in relation to the individual and the Council as a whole.

## **2.5 In House Provision**

The Councils default position is that the In-house Provider should be used, unless an exemption has been obtained from the relevant corporate Director for the Service Area.

If the Council has an In-house Provider that may be able to carry out the Contract, then the Officer is required in the first instance to engage with the In-house Provider and establish whether they are able to fulfil the Council's requirements.

Where the In-house Provider is awarded the Contract under this provision these PPRs shall not apply to Contracts entered into by the In-house Provider in order to carry out the work, save for Rule 5 and Rule 6 which will continue to apply.

## **2.6 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended**

TUPE applies to employees of businesses within the UK and can arise where there is a transfer of an economic entity which retains its identity (Relevant Transfer). This can be where there is a proposal to transfer part/whole of a business to another (this can include a merger of 2 companies), or where there is a service provision change through outsourcing, awarding the service to a new provider or bringing the service back in house.

Officers must ensure that TUPE issues are considered at the start of the procurement process and that legal advice is obtained before proceeding with inviting Tenders or Quotations, as the procurement documentation will need to indicate whether TUPE is likely to apply to the Contract being awarded.

## **2.7 Collaborative Arrangements**

In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. The Officer must consult the Section 151 Officer and the Monitoring Officer where it is proposed that a purchase is to be made using collaborative procurement arrangements.

Contracts entered into through a collaboration arrangement will be expected to follow the provisions set out in the Contract Procedure Rules of the lead organisation. In such circumstances there will be no requirement for the Officer to seek an exemption from PPRs where the award of the Contract will be by the lead organisation. However, in all instances, the Officer will be required to seek advice from Legal Services to ensure that the proposed Contract and relevant approvals are in place for the award to take place on behalf of the Council.

## **2.8 Providing Services to External Organisations**

In considering whether to provide services to an external organisation, the relevant Corporate Director for the Service Area must be consulted. In doing so the Officer must have regard to these PPRs and the Financial Procedure Rules and have sought advice from Procurement and Legal Services and Commercial should be consulted.

## **2.9 Assets for Disposal**

The method of disposal of surplus or obsolete stocks / stores or assets other than land must be disposed of in accordance with guidelines representing best practice for disposal of assets as set out in the Financial Procedure Rules.

## **2.10 Authority to Commence Procurement**

A procurement can only be authorised by those with delegated authority to do so, as set out in the Constitution.

Before commencing a procurement, the authorised person must confirm compliance with these PPRs, have in place budgetary approval and where a Key Decision is required, have obtained Cabinet approval.

The commencement of the procurement process cannot continue until all the above approvals are in place.

## **2.11 Authority to Award**

A Contract can only be awarded by those with delegated authority to do so, as set out in the Constitution.

Where it is identified that the necessary approvals have not been achieved, the process cannot continue until all approvals are in place.

Where there is a discrepancy in the budget or funding approved and the prices submitted as part of a suppliers Tender bid, the following must be applied:

(a) insufficient funding

All requests for additional funding, must be requested in accordance with the appropriate approval level, detailing the value required and the reason or justification for the overspend.

(b) variance reporting

Where the prices returned, following a procurement exercise, vary from the budget by more than +10%, the Officer must seek approval to award in line with the approval level, regardless of whether additional funding is required, e.g. requirements funded from revenue budgets.

Where both insufficient funding and variance reporting apply, this can be addressed in a single report.

## 2.12 Approvals and Internal Procurement Thresholds

The following table sets out the approval thresholds for all procurement exercises undertaken by the Council.

Value	Approval to Procure	e-tendering required	responses	Contract Terms	Basis of award	Contract award	Contract register	Transparency
> £5,000	Corporate Director or an Officer holding delegated authority	No	Minimum of 1 quotation	Purchase Orders	Price Only but MEAT should be considered where appropriate	Corporate Director, or an officer holding Delegated Authority	No	
£5,001 to £25,000	Corporate Director or an Officer holding Delegated Authority	No	Minimum 3 written quotations received, unless via mini-competition through a framework agreement	Discuss with Procurement and Legal	Can be price only but MEAT must be considered	Corporate Director, or an officer holding Delegated Authority	Yes	LGTC
£25,001 to £100,000	Management Board	Yes, unless via a mini-competition through a framework agreement	Minimum 3 written quotations. Where only 1 received, specification should be reviewed to eliminate blocking criteria	Discuss with Procurement and Legal	MEAT	Corporate Director, or an officer holding Delegated Authority up to £100,000	Yes	LGTC Contracts Finder
£100,001 to UK Threshold	Management Board or Cabinet where the value exceeds	Yes unless via a mini-competition through a framework agreement	Open Tender Where only 1 received, specification should be	Discuss with Procurement and Legal	MEAT	Cabinet Member (between (£100,000 - £150,000))	Yes	LGTC Contracts Finder



	£150,000		reviewed to eliminate blocking criteria			or Officer holding Delegated Authority as approved by Cabinet, or Cabinet		
<b>Above UK Threshold</b>	Cabinet where the value exceeds £150,000	Yes unless via a mini-competition through a framework agreement	Regulation compliant tender	Discuss with Procurement and Legal	MEAT	Cabinet Member or an Officer holding Delegated Authority as approved by Cabinet, or Cabinet	Yes	LGTC Contracts Finder  FTS

MEAT = Most Economically Advantageous Tender

LGTC = Local Government Transparency Code

FTS = Find a Tender Service

### 3. PRE-PROCUREMENT CONSIDERATIONS

#### 3.1 Commencing a Procurement

All Officers are required to obtain the necessary approvals before commencing a procurement process. These approvals vary according to value and whether the procurement is considered a Key Decision.

The Officer must calculate the Total Value of the Contract and Paragraph 3.3 sets out how the Total Value is calculated.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of Procurement and Monitoring Officer.

#### 3.2 Procurement Route

The procurement route applicable to any project is set out in the table in PPR 2.12.

All procurements within the scope of the Regulations will be required to use the most optimum route to market as discussed with Procurement.

#### 3.3 Calculating Total Value

The Total Value of the Contract is the total amount the Council plans to or might spend over the whole duration of the Contract (including extensions) on a given requirement, regardless of the department or individual initiating the purchase.

A Contract value should be calculated as follows:

- (a) a lump sum Contract
  - (i) this is a one-off, capital project, only used by one person / department
  - (ii) the value is the total budget available (including any contingency)
- (b) a periodic Contract
  - (i) this is where there is an annual, regular, potentially on-going requirement, by either one or all departments
  - (ii) the Contract value is the potential annual spend (across the whole Council) multiplied by the number of years the Contract is to run (including any extension/s).

For annual agreements that are left to roll into the preceding year, the Contract value and route to market will be determined by multiplying the annual cost by two.

Where a Contract is designed to be utilised by multiple authorities, the value must reflect the total potential spend, across all participants, for the whole duration; this should be listed as a price range in the relevant advertisements. It is advisable to include some contingency.

The Contract needs to reflect any known and reasonably foreseeable requirements over the life of the contract. Accordingly, the duration should be decided based on achieving economy of scale, commerciality of the requirements, Best Value and applicability; considering criteria such as whole-life-cycle costings, so as to address the life span of any equipment and capital write-off costs etc.

The Council must not disaggregate or sub-divide like or similar works by procuring multiple, smaller or shorter Contracts. This includes not segregating any requirements by department or reducing the Contract duration, so as to reduce the Total Value.

The Council encourages the use of Corporate Contracts by way of term Contracts, Framework Agreements and Dynamic Purchasing Systems. In these instances, the Total Value is across all disciplines and Lots, across the whole duration and all authorities participating in the Contract.

### **3.4 High Risk Contracts**

The Council defines a high-risk Contract as one where any of the following instances apply to the Contract:

- (a) it has a value over UK Threshold,
- (b) it involves leasing arrangements,
- (c) may require the supplier to hold money on behalf of the Council,
- (d) may include an advance payment requirement,
- (e) appertains to software or licences,
- (f) is for a duration of 5 years or more,
- (g) is considered commercially sensitive; such as representing a significant change to income or costs to the Council,
- (h) includes significant, additional Contractual requirements or risks such as; TUPE, Intellectual Property Rights, collateral warranties for design considerations, etc.,

- (i) is of significant interest to residents due to investment, desirability, disruption etc., or
- (j) is for services where public safety is a key concern and therefore requires appropriate consideration of health and safety, insurance and health and safety procedures.

Where a leasing arrangement is being considered, approval from the Corporate Director (Finance) is required before entering into any agreement. Leasing includes property, vehicles and equipment etc.

Where a Contract is considered High Risk, Officers are required to liaise with Procurement and Legal Services, regardless of value, to ensure all appropriate actions are taken to mitigate the Council of the identified risks.

### **3.5 Risk Assessments**

Officers are required to complete a risk assessment on all procurements that are deemed High Risk or within scope of the Regulations.

Officers should use the Council's standard templates where these are available and liaise with Legal Services and Procurement to complete. Once completed the risk assessment must be added to the corporate risk register.

Provision of resources for the management of the Contract, for its entirety, must be identified.

### **3.6 Safeguarding**

The Council has a statutory obligation to co-operate with Essex County Council in discharging its duties in relation to children's services and to promote the well-being of children and young people. Essex County Council is also the lead agency for the protection of vulnerable adults. The Council has adopted a Safeguarding Policy for Children, Young People and Vulnerable Adults and in procuring services the Council shall ensure that contractors and suppliers are aware of the Council's statutory obligations and where appropriate will be subject to CRB checks. When procuring services the Council shall:

- (a) ensure that all contractors and suppliers appointed by the Council are made aware of the Council's safeguarding policy and
- (b) that those contractors or suppliers providing "regulated activities" or have been identified as providing direct services to children or vulnerable adults where appropriate are CRB checked;
- (c) all procurement processes specifically identify whether services are providing "regulated activities" or services direct to children and/or vulnerable adults and if so CRB checks are undertaken in relation to staff employed by contractors or suppliers where appropriate.

### **3.7 Bonds and Parent Company Guarantees**

The Section 151 Officer must be consulted about whether a Parent Company Guarantee is necessary where the Contract is considered to be High Risk.

In addition the Section 151 Officer must be consulted about whether a Bond is needed where the project is considered to be a High Risk due to the potential service failure (likelihood and/or impacts). In such circumstances advice should be sought from Procurement, Finance and Legal Services, and consideration should be given to the benefits versus the costs of requiring a Bond.

Where a Bond or Parent Company Guarantee is deemed necessary, this should be in a form acceptable to the Council as determined by the s.151 Officer.

### **3.8 Corporate Framework Agreements**

The Council may wish to establish a Corporate Framework through a Framework Agreement or through the establishment of a Dynamic Purchasing Systems (DPS), with various Lots as appropriate.

The term of a Framework Agreement must not exceed four years, save in exceptional cases duly justified, and may be entered into with just one provider.

The duration of a Contract awarded under the Framework Agreement (the Call-off Contract) may extend past the Framework Agreement end date, where the Framework Agreement or DPS allows for this to take place.

Framework Agreements and DPS procured by the Council may include access for partnering authorities (where they are another public body they may be required to complete an access agreement should they wish to use the Framework Agreement).

When applying the principles of mini-competition to a Framework Agreement or DPS, all suppliers accepted onto the arrangement (for the relevant Lot), must be invited to Tender every time there is a call off opportunity, and the specification and requirements must be refined and stated at this point.

All mini competitions must be carried out electronically using the Council's e-tendering portal.

A record of each Contract awarded under the Framework Agreement must be entered onto the Councils Contract Register and all other external registered as required.

Contract award notices must be published in accordance with these PPRs.

### **3.9 Use of other Frameworks**

All purchases made via an available Framework Agreement or a purchasing and distribution consortium are deemed to comply with these PPRs and no exemption is required.

Consultation with Procurement is required before proceeding to ensure that the selected framework is available to the Council to use and to ensure compliance with the framework procedures in calling off a Contract from the identified framework.

Direct awarding to a company through a Framework Agreement is only in exceptional circumstances. This must be agreed with Procurement prior to award.

Contract award notices must be issued as required by the framework procedures, and to meet the Council's transparency obligations.

Call-off Contracts awarded via a framework are treated the same as any other Contract and therefore must comply with the contract formalities as set out in these PPRs and must be added to the corporate Contracts Register.

### **3.10 Exemptions**

The S.151 Officer has power to waive any requirements within these PPRs for specific projects. Where the waiver is a Key Decision, then the matter must be referred to Cabinet for determination.

The requirement for the Council to conduct a competitive purchasing process for any Contract may be waived in the following circumstances:

- (a) the Contract to be awarded does not exceed the relevant UK Threshold: and
- (b) the Contract is awarded where a competition has been undertaken on behalf of the Council; or
- (c) it is necessary as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property or loss of service; or
- (e) goods or materials are available only as proprietary or patented articles from one Contractor or supplier, and for which there is no reasonable satisfactory alternative.

In all instances, Procurement must be consulted prior to submitting a request for an exemption. Advice should also be sought, where appropriate and necessary from Legal Services.

All requests for an exemption from these PPRs shall be on the Exemption Form, and are required to detail the reasons why an exemption is being sought, and must include, as a minimum:

- (a) the reason for the exemption request
- (b) the value of the exemption
- (c) the period (start and end dates) to which the exemption will apply; and
- (d) a summary of risks and impacts if not agreed.

All requests for an exemption shall be reviewed by Procurement before approval by the Section 151 Officer.

The Section 151 Officer shall monitor and keep a record of the use of all exemptions.

## **4. CONDUCTING A PROCUREMENT**

### **4.1 Pre-Tender Market Research and Engagement**

The Council encourages the use of a 'Request for Information', and understands the potential need for soft market testing to be carried out in certain circumstances, other less formal areas of research include market research and benchmarking, prior to defining the specification requirements for the Contract.

Such research must not create an anti-competitive environment distorting competition, being positively or negatively discriminatory to any potential bidders or using any specific, exact information or advice from a company. Any potential supplier must not write the specification or Contract, where they have a commercial interest in the

proposed Contract.

Market Engagement should take place to ensure the Council has an adequate understanding of the supply market especially where the Council's future procurement intentions are likely to involve significant changes to any existing supply arrangements or service delivery or new and innovative methods are likely to be required from suppliers.

The Officer undertaking Market Engagement must:

- (a) engage with Procurement to carry out the Market Engagement;
- (b) ensure that Market Engagement does not prejudice any potential Bidder
- (c) take care to advise suppliers involved in any Market Engagement exercise that their involvement should not be taken as an indication of future business; and
- (d) ensure that no supplier or suppliers gain an unfair competitive advantage through their involvement in market shaping activities.

In order to ensure that there is no breach of the obligations set out above, it might be necessary to exclude a Bidder from the Market Engagement. This should only take place when there is no other way of ensuring compliance with the obligation to treat all Bidders equally. The relevant Bidder should be given the opportunity to prove that their involvement in the preparation of the procurement is incapable of distorting competition.

## **4.2 Advertising Opportunities**

All procurement activity with a value of £25,000 or greater must go through the Council's e-tendering portal.

The use of e-procurement technology does not negate the requirement to comply with all elements of these PPRs.

## **4.3 Electronic Tendering**

Bidders must be given an adequate period in which to prepare and submit a proper Quotation or Tender, which is consistent with the complexity of the Contract requirement.

The Regulations set out minimum time limits for procurements that must comply with the Regulations. For procurements under the UK Threshold sufficient but not disproportionate period of time must be allowed.

Where the e-tendering portal is used, all communication between the Council and Bidders must be conducted through the portal.

All Bidders must be issued with the same information at the same time and subject to the same conditions. Any supplementary information given during the procurement process must be given on the same basis.

Procurement will be responsible for:

- (a) advertising all opportunities,
- (b) providing the appropriate amount of time to respond, based on the procurement level,

- (c) issuing all required information via the portal,
- (d) managing all questions and supplier clarifications through the portal, ensuring all information is made public (except where commercially sensitive or subject to the Data Protection Act),
- (e) only accepting Tenders correctly returned via the portal, and
- (f) only accepting on-time Tenders

Deviation from these requirements must be with the express approval of Procurement and where necessary, the Monitoring Officer.

Extensions to the bidding period can only be granted with the agreement of Procurement, with reference where appropriate to Legal Services.

Tenders received by post fax or other electronic means (e.g. email) must be rejected, unless prior approval has been obtained from Procurement.

#### **4.4 Procurement Documents**

All procurements require a document pack; this to be made up of the Council's standard templates where available, supplemented by any additional technical information.

All Invitations to Tender or requests for Quotation must specify the goods, service or works that are required, together with the terms and conditions of Contract that will apply, see paragraph 5.1.

All procurements require the ITT to include a Project Brief and Specification which shall be completed by a technically capable Officer.

Any drawings, plans or data sheets should be included as an appendix to the ITT.

Where a project requires bespoke documents rather than the agreed templates, this must be justified to and agreed with Procurement and Legal Services before the procurement process commences.

Where the project has identified a benefit from arranging site visits, advice should be sought from Procurement before proceeding. The procurement documents must set out the availability of a site, where one is available, and should allow sufficient time for all potential bidders to attend.

#### **4.5 Standards and Award Criteria**

The Officer must ascertain what are the relevant British, European or International standards which apply to the subject matter of the Contract.

The Officer must include those standards which are necessary properly to describe the required quality. The Monitoring Officer must be consulted if it is proposed to use standards other than the relevant European standards.

The Officer must define the Award Criteria in accordance with the Council's procedures and guidelines that are appropriate to the requirement and designed to secure an outcome giving Value for Money for the Council and a competent bidder winning the

contract. In doing so the Award Criteria must be based on the MEAT from the point of view of the Council.

Award Criteria must not include:

- (a) Non-commercial Considerations; or
- (b) Matters which discriminate against suppliers who are signatories to the Government Procurement Agreement.

Non-Commercial Considerations can include social value, environmental and modern slavery. However these are encourage to be included in the Award Criteria, with a relevant and appropriate weighting applied.

#### **4.6 Invitations to Quote**

Invitations for quotes shall be in accordance with Table 1.

Wherever possible the minimum number of quotes must be obtained as set out in Table 1. However, where the officer has approached sufficient number of suppliers, and exhausted all other avenues, then where a lower number of quotes has been received, it may be possible to continue with the procurement process, provided Procurement have been consulted and the appropriate form has been completed.

A minimum of three Quotations must be obtained in circumstances where the Officer is considering a Quotation from a Contractor being either an individual or an organisation owned or controlled by a person who is known to be or have been in the preceding three years an employee or Councillor of the Authority, regardless of value.

#### **4.7 Invitations to Tender**

For a Contract with an estimated value over £25,000 an Invitation to Tender shall be issued via the e-tendering portal.

All Invitations to Tender shall include:

- (a) A specification
- (b) Key Performance Indicators
- (c) A draft Contract
- (d) Information setting out that the Tenderer shall;
  - (i) declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
  - (ii) complete and sign all Tender documents including a form of Tender and certificates relating to canvassing, non-collusion and the disclosure of any offence connected with the unlawful processing of personal data in relation to individual workers;
  - (iii) submit all Tender documentation via the e-tendering portal with relevant



- instructions regarding the documents required; and
- (iv) submit the Tender at the tenderer's own expense.
  - (e) A description of the award procedure and a definition of the Award Criteria in objective terms and where possible in descending order of importance.
  - (f) Information confirming that the Council reserves the right to:
    - (i) cancel or withdraw from the Tender process at any stage;
    - (ii) not to award a Contract;
    - (iii) require a Bidder and/or its supply chain members to clarify its/their submission in writing and/or provide additional information (failure to respond adequately may result in a bidder being unsuccessful); and
    - (iv) amend the terms and conditions of the procurement process.
  - (g) Information about the method by which any arithmetical errors discovered in the submitted Tenders is to be dealt with. In particular, whether the overall price prevails over the rates in the Tender or vice versa.

#### **4.8 Post-Tender Negotiation**

Providing clarification of an Invitation to Tender to potential or actual Bidders or seeking clarification of a Tender, during the Tender period is permitted.

All post Tender clarifications, to confirm compliance and suitability of the bid must be via the e-tendering portal.

Discussions with tenderers after submission of a Tender and before the award of a Contract with a view to obtaining adjustments in price, delivery or content (i.e. post-Tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in a procurement which is subject to the Regulations unless a competitive dialogue or competitive procedure with negotiation process is being used.

If post-Tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender and are permitted by law, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Bidders have been informed.

During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents.

Procurement and the Contract Manager to carry out post-Tender negotiations and should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

Post-Tender negotiation must only be conducted in accordance with the law and guidance issued by Procurement. However, where appropriate the matter may be escalated to the Monitoring Officer who, together with the Section 151 Officer.

Where post-Tender negotiation results in a fundamental change to the specification (or Contract terms) the Contract must not be awarded, and the procurement must be re-

tendered.

#### **4.9 Shortlisting**

In a Competitive Procedure with Negotiation and Competitive Dialogue, it is possible for the Council to reduce the number of Tenders through Shortlisting.

The contract notice must indicate whether the Council will be using Shortlisting as part of its process. Any Shortlisting must have regard to the financial and technical standards relevant to the Contract and must be against the Award Criteria.

At least two Officers are required to undertake Shortlisting, one of whom should be from a Procurement.

#### **4.10 Evaluation**

All evaluation must have regard to the financial and technical standards relevant to the Contract and the Selection Criteria and Award Criteria.

In conducting the evaluation process the following requirements must be met:

<b>Total Value</b>	<b>Evaluation</b>
Total Value up to £10,000	One Officer
£10,000 to £25,000	Two Officers
£25,000 up to threshold	Three Officers with Procurement involvement
Above OJEU Threshold	Three Officers, with Procurement involvement

The Evaluation process shall establish that the potential Bidders:

- (a) have sound economic and financial standing
- (b) have suitable technical ability and
- (c) can fulfill the requirements of the Council.

The Council's procedure as determined by procurement, shall be followed to determine technical ability and any financial vetting shall only be undertaken by a member of the Finance Team.

For a Contract where any part of the Council has been invited to submit a bid in competition with the private sector an Officer nominated by the Monitoring Officer shall also be present.

Those involved in the evaluation of the Tender, shall record their decision in writing, and this must be supported by details of their reasoning on the scoring awarded against the Award Criteria and questions.

#### **4.11 Award of Contract and Debriefing Bidders**

Apart from the debriefing required or permitted by these PPRs and subject to the Regulations and the Freedom of Information Act 2000, the confidentiality of Quotations, Tenders and the identity of Bidders must be preserved at all times and information about one Bidder's response must not be given to another Bidder.

Procurement shall provide a debrief in writing to all Bidders who submitted a bid in accordance with the specific requirements. All debriefs will be proportionate to the value and complexity of the Contract to be awarded, fulfill the requirements set out in Regulations and shall include details of the grounds for the decision.

All debriefs shall be issued via the e-tendering portal, where used.

#### **4.12 Award Letters**

All award letters and notifications are to be issued by Procurement using the Council's standard templates.

Where the procurement is managed through the e-tendering portal, the award notifications must be issued via the portal.

Award Letters must be signed by Procurement.

All Bidders are to be notified of the outcome of the procurement process at the same time.

Bidders are to be provided with feedback as requested, in accordance with Regulations.

#### **4.13 Standstill Period**

Where the Contract exceeds the UK Threshold a standstill period of at least 10 calendar days must be applied between the point of the contract award notice and the entering into of the Contract by the Council and the winning bidder.

During this period Bidders will be able to bring a challenge to the Council over its procurement process. Where a challenge is received the Council shall not enter into the Contract until the challenge has been resolved or withdrawn.

Whilst there is no mandatory requirement for a standstill period where the contract has been called off a framework, in line with best practice, the Council will use a voluntary standstill period of at least 10 calendar days in order to reduce the risk of ineffectiveness for mini-competition call offs, where the value of the contract is over the UK Threshold or the Contract is High Risk.

#### **4.14 Tender Reports**

A Tender Report must be completed and agreed by Procurement and the Head of Service before any award is notified.

A copy of the Tender Report must be stored in the Contract folder.

#### **4.15 Records**

Where the Total Value is less than £25,000, and the e-tendering portal is not used the following records must be kept:

- (a) the successful Bidders Quotation/s;
- (b) a record of the reason if the lowest price is not accepted; and
- (c) written records of communications with the successful Contractor or an electronic record if a written record of the transaction would normally not be produced.

Records required by these PPRs must be kept, in respect of the successful Contract, in accordance with the Council's document retention policies after the end of the Contract.

## **5. CONTRACT AND OTHER FORMALITIES**

### **5.1 Contract Terms and Conditions**

All Relevant Contracts that exceed £10,000 shall be in writing and must be in a form approved by Procurement, in consultation with Legal Services.

A Contract is a defined set of requirements and terms and conditions specified by the Council and sets out the relationship and expectations of the parties during the contract period.

A Contract, irrespective of value must include:

- (a) details of what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done),
- (b) Key Performance Indicators
- (c) Contract Management details including meeting frequency
- (d) the time(s) within which the Contract is to be performed,
- (e) duration – length of agreement plus any available extensions,
- (f) pricing schedule – a fixed sum or schedule of rates,
- (g) the provisions for payment (i.e. when),
- (h) the Contract parties – those between who the Contract applies; BDC and the winning bidder,
- (i) change process – variations and extensions,
- (j) the provisions for the Council to terminate the Contract, and
- (k) whether the Contractor may not assign or sub-contract without prior written consent,
- (l) any insurance requirements, the Officer will ensure that the Contractor holds adequate Insurance policies to include, Employers Liability Insurance and Public Liability Insurance where appropriate, Professional Indemnity Insurance, which will protect the Council's interests and cover all potential losses that may arise, and remain in effect throughout the term of the Contract. An adequate level of Insurance will be determined in consultation with the Head of Insurance.
- (m) Health and safety requirements,
- (n) Equality Act requirements,
- (o) Data Protection Act requirements, if relevant,
- (p) that charter standards are to be met if relevant,
- (q) Freedom of Information Act requirements,

- (r) a right of access to the Council to relevant documentation and records of the Contractor for monitoring and audit purposes if relevant, and
- (s) that there is provision for the payment of a living wage to all employed on the Contract as defined by the Living Wage Foundation and where necessary have regard to the provisions of the Modern Slavery Act 2015.

Each party to the Contract acquires rights and duties, failure by either party to fulfil their duties set out in the Contract may constitute a breach of Contract. Where this occurs, the Officer should seek legal advice on the options available to the Council.

Where the Council holds standard contract templates, these are to be used for all procurements unless expressly agreed otherwise by Legal Services and Procurement.

All Contracts below £25,000, where the Councils purchase order (PO) terms and conditions are not used, or above £25,000 where the ITT Terms and Conditions are not used, must be agreed by Legal Services before issuing procurement documentation.

The Council requires all construction and works contracts to use industry standard forms, with minimal amendments, unless expressly agreed otherwise by Legal Services, Procurement and the relevant Head of Service.

The Council will not accept amendments to the proposed Council terms and conditions nor sign a supplier's terms and conditions of business, unless pre-agreed with Legal Services, Procurement, the Head of Service and the Section 151 Officer prior to the procurement commencing.

## **5.2 Executing a Contract (Signing and Sealing)**

Executing the Contract can be by signing or sealing the Contract; first by the supplier and then the Council.

Signing a Contract requires two signatures:

- (a) one by the supplier: by an authorised person (usually a director). Someone with authority to bind them to the agreement; and
- (b) one by the Council: which will be an Officer with the requisite delegated authority.

Where the document is to be executed as a Deed, and therefore sealed by the parties, formalities will depend on the type of organisation involved (e.g. company / charity / person) etc.). The appropriate wording will be provided by Legal Services.

Where the Council affixes its common seal, this will be attested by the Monitoring Officer or another Officer authorised by them. Such an Officer shall be authorised in accordance with any sub-delegations issued by the Monitoring Officer. Legal Services must be consulted before a document is executed as a deed.

All contracts with a value of £150,000 or more must be sealed by the Council.

In addition, a Contract must be executed as a Deed where:

- (a) the Council may wish to enforce the Contract more than six years after it has expired;
- (b) the price paid or received under the Contract is a nominal price and does not reflect the value of the goods or services; or

- (c) there is any doubt about the authority of the person signing on behalf of the other contracting party.

Where the Contract is to be executed as a Deed or being signed, a copy of the Cabinet, Cabinet Member, Committee or Officer Decision setting out the approval which agrees the budget, capital expenditure and/or permission to enter into the Contract must be provided to the Governance Team together with a hard copy of the Contract documents, and a completed Sealing Authorisation Form.

The Officer responsible for securing signature of the Contract (either by way of a signature or seal) must ensure that the person signing for the other contracting party has authority to bind it.

The following requirements for signing or sealing a Contract apply:

Total Value	Method of Completion	By
Up to £25,000	Signature	Head of Service
Up to £150,000	Signature	Head of Governance or Officer with Delegated Authority
Above £150,000	Sealing	The Monitoring Officer or an Officer with delegated authority

Every Seal will be consecutively numbered, recorded and signed by the person attesting the seal. The seal must not be affixed without the authority of the Cabinet, Cabinet Member, a Committee, or an Officer acting under delegated powers.

## **6. CONTRACT MANAGEMENT**

### **6.1 Electronic Contract Register**

The Council is required to publish all Relevant Contracts over £5,000 on an electronic Contract Register, no later than 30 days after the Contract award.

The Contract Register should store all information relevant to the Contract, this should include the final executed Contract, all procurement related advice and supporting documentation relating to the procurement process.

All information added to the Contract Register must be consistent with the requirements of the Data Protection Act and the Council's retention policy.

All fields on the Contract Register must be completed accurately as an extract is published monthly on the Council's website.

A named Contract Manager must be provided for all Contracts with a value exceeding £5,000.

Any Contract variations should be added to and appropriately amended on the Contract Register in a timely manner.

## **6.2 Managing Contracts**

All Contracts must have a named Contract Manager for the entirety of the Contract. The purpose of this requirement is to enable the Contractor to have a contact within the Council, and that there is always an Officer appointed to manage the Contract.

The Contract Manager shall, subject to this paragraph, ensure that work under a Contract does not begin until the Contract has been executed, and shall be responsible for:

- (a) ensuring that the Contract is carried out in accordance with its terms and conditions,
- (b) monitoring the supplier's performance and ensuring compliance,
- (c) monitoring cost and Best Value requirements,
- (d) monitoring equalities and sustainability data, where appropriate,
- (e) monitoring user satisfaction,
- (f) monitoring risk management,
- (g) formal and documented periodic reviews
- (h) ensuring the supplier complies with the Council's policies,
- (i) ensuring that the supplier maintains the insurance policies required by the Contract,
- (j) ensuring any minor changes to the Contract are agreed and approved before they are carried out,
- (k) monitoring sub-contracting in accordance to the requirements and limitations detailed in the Contract,
- (l) keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the Contract. Payments must only be made against a valid invoice,
- (m) deducting liquidated damages, where identified and allowed,
- (n) in consultation with Legal Services and Procurement, consenting to sub-contracts, assignment or novation to new suppliers; and
- (o) managing the operational transition between the ending of one Contract and the beginning of another.

For all High Risk Contracts Contract Managers must:

- (a) maintain a risk register during the contract period
- (b) undertake appropriate risk assessments, and
- (c) ensure contingency measures are in place for identified risks.

The Contract Manager must consult with Legal Services, the Monitoring Officer, Procurement and Finance for consideration of the Council's legal and procurement position:

- (a) before any Contract is to be terminated or suspended;

- (b) in the event of a claim for payment not clearly within the terms and conditions of Contract;
- (c) before making any deduction from payments due to a supplier or withholding payment from a supplier (unless provision is made for this in the Contract);
- (d) in settling any dispute;
- (e) making any extension to a Contract or variation to the scope of a Contract; and
- (f) if a supplier enters into receivership or goes into liquidation.

### **6.3 Contract Review, Monitoring and Reporting**

For all Contracts, the following tasks are carried out as a matter of good practice:

- (a) the Contract is monitored for performance, cost and compliance;
- (b) evaluation of the extent to which the purchasing need and the objectives have been met by the Contract and provide details of financial variances against the intended Contract values if requested by the Chief Executive, the relevant Cabinet Member, relevant Head of Service or the Monitoring Officer; and
- (c) notify Procurement, Monitoring Officer and Section 151 Officer where the actual expenditure under the Contract has exceeded or reduced from the initially intended Contract value by a sum greater than 10% for services/goods/supplies or 15% for works.

All Contracts which have a value higher than the UK Threshold, or which are High-Risk, are to be subject to a minimum of monthly formal reviews with the Contractor. The Contract Manager shall maintain an issues log and monitor the performance of the Contract against:

- (a) Key Performance Indicators of the Contract,
- (b) the terms and conditions including any Service Level Agreement contained in the Contract,
- (c) the actual cost compared to the anticipated costs with a view to identifying and explain any variances,
- (d) any other requirements of the Council.

### **6.4 Significant Cost Variations**

The Section 151 Officer shall in any case where in their view there is a significant variation (excluding permitted price fluctuations due to inflation) between the Contract figure previously approved and the final cost, submit a report to the Council's Management Board detailing the final cost of the Contract for the execution of works.

They shall also submit therewith a detailed statement signed by the Contract Manager showing the original amount of the Contract and the additions and deductions passed by them in respect of work done, or work included in the Contract not carried out and the total amount paid or certified for payment.

Procurement must also be made aware of these before the end of the Contract.



## **6.5 Contract Variations**

A Contract can be varied, under certain circumstances, post award, if agreed by both parties.

Any Contract variation must be 'in scope' i.e. suitably similar and relevant, to the original contract advert and specification.

Officers are advised that some Contract variations may constitute new Contracts that require competition and advice should be sought from Procurement and/or Legal Services.

A Contract cannot be varied where, the additional value would breach the relevant UK Threshold, where it was procured as a below threshold procurement.

The Regulation 72 applies to over UK Threshold Contracts, and limits the ability to vary a Contract. Advice from Procurement should be sought before any variations to such Contracts are considered.

No variation shall be agreed with the supplier and confirmed in writing unless the Officer has sought professional advice from Legal and the Procurement team as to whether the proposed variation is permitted.

Any variation shall be confirmed in writing, by way of a Deed of Variation, to the supplier, and must be signed by all parties to the original Contract and updated on the Contract Register.

A variation must be approved in accordance with any delegated authority. If the decision was taken by Cabinet and was not delegated to another, then any decision to vary or extend that Contract must be returned to Cabinet for approval.

Before a certificate for final payment under a works Contract is signed the Contractor's final account and such other relevant documents, information and explanations as the Section 151 Officer may require shall be submitted to the Section 151 Officer by the Officer and any observations which Section 151 Officer may make to the Officer thereon shall be taken into consideration before the certificate is signed.

Where required a contract notice will be published by Procurement.

Subject to adequate budgetary provision and compliance with general financial regulations the officer holding delegated authority may authorise an extension or a variation to an existing Contract, subject to the Regulations and prior consultation with Procurement, the Legal Services Manager and the Section 151 Officer as follows:

- (a) an extension for a period stipulated by the Contract, provided that extension and cost was approved at the time of the decision to enter into the contract;
- (b) a single extension of the Contract not exceeding the original Contract term; or
- (c) any other variation, and if relevant a consequent change in price, determined in accordance with the Contract terms.

## **6.6 Extensions to Contracts**

All Contract extensions must be allowed within the original terms and conditions of the original Contract. However, the Council may seek to extend the Contract period not provided for within the current Contract, by way of an exemption (waiver), where any of the following apply:

- (a) there is only one supplier able to deliver the requirement e.g. maintenance is restricted to the manufacturer of the equipment
- (b) the requirement relates to ICT
- (c) the extension covers an unforeseeable requirement; or
- (d) the extension facilitates a current, compliant procurement process, assuming none of the above points are in conflict, and the requirement is not due to a wilful lack of action

A Contract cannot be extended by way of an exemption where:

- (a) the extension will make a non-Regulation procurement breach the UK Threshold, or:
- (b) the extension will make a Regulation procurement exceed its advertised value by more than 50%.

Any extensions by way of an exemption will only be to facilitate effective service delivery and a procurement.

Contract extensions will be agreed in writing, by way of a Deed of Variation, and signed by all parties to the original Contract, and will be recorded on the Contract Register.

## **APPENDIX 1 - DEFINITIONS**

<b>Agent</b>	A person or organisation acting on behalf of the Council or on behalf of another organisation.
<b>Award Criteria</b>	The criteria by which the successful Quotation or Tender is to be selected.
<b>Best Value</b>	<p>The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council.</p> <p>This terminology has now in many instances been superseded by Value for Money.</p>
<b>Bidder/s</b>	Any person who asks or is invited to submit a Quotation or Tender.
<b>Bond</b>	An insurance policy: if the Contractor does not do what it has promised under a Contract with the Council, the Council can claim from the insurer the sum of money specified in the bond. A bond is intended to protect the Council against a level of cost arising from the Contractor's failure.
<b>Cabinet</b>	The Council's Cabinet as defined in the Constitution.
<b>Cabinet Member</b>	A member of the Cabinet to whom political responsibility is allocated in respect of specified functions.
<b>Call-off Contract</b>	An individual contract that falls under a framework agreement
<b>Chief Executive</b>	As identified in the Constitution
<b>Code of Conduct</b>	The code regulating conduct of Members.
<b>Committee</b>	A committee which has power to make decisions for the Council, for example a joint committee with another local authority, but not a scrutiny committee.
<b>Constitution</b>	<p>The constitutional document approved by the Council which:</p> <ul style="list-style-type: none"><li>• allocates powers and responsibility within the Council and between it and others</li><li>• delegates authority to act to the Cabinet, Committees, Cabinet Members and Officers</li><li>• regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li></ul>
<b>Consultant</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings

	specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
<b>Contract</b>	An agreement between the Council and a third party creating mutual obligations enforceable by law
<b>Contract Manager</b>	The Officer designated by the Head of Service to manage the Contract and has the responsibilities set out in paragraph 6.2.2
<b>Contract Register</b>	A spreadsheet containing all Contracts (where the Contract has a value exceeding £5,000 and is granted for a period exceeding 12 months or likely to be extended beyond 12 months).
<b>Contracting Decision</b>	Any of the following decisions: <ul style="list-style-type: none"> <li>• whom to invite to submit a Quotation or Tender</li> <li>• Shortlisting</li> <li>• award of Contract</li> <li>• any decision to terminate a Contract.</li> </ul>
<b>Corporate Contract</b>	A Contract let by the Council to support the Council's aim of achieving Value for Money.
<b>Corporate Directors</b>	As identified in the Constitution
<b>Council</b>	Braintree District Council
<b>Dynamic Purchasing System (DPS)</b>	<p>A DPS enables the creation of an approved list of multiple suppliers, across multiple Lots (disciplines, trades, services, specific requirements) to be pre-approved based on a predefined list of minimum skills, experience and specification requirements.</p> <p>It is a flexible list which includes a refresh cycle enabling new suppliers to join the arrangement throughout the life of the Contract.</p> <p>Use of the DPS must be by way of a transparent, clearly defined mini tendering process.</p>
<b>European Economic Area</b>	The members of the European Union, and Norway, Iceland and Liechtenstein.
<b>Financial Procedure Rules</b>	The financial standing orders outlining Officer responsibilities for financial matters issued by the Section 151 Officer in accordance with the Constitution.
<b>Framework Agreement</b>	<p>An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Contracts to be awarded during a given period.</p> <p>A Framework Agreement enables multiple suppliers, across one or</p>

	<p>multiple Lots (disciplines, trades, services, specific requirements), to be pre-approved for quality, and a maximum price, for use as and when a need arises.</p> <p>A Framework Agreement is a fixed list of suppliers, for up to a maximum of four years. A Framework Agreement cannot be extended beyond 4 years, unless in specific circumstances.</p> <p>(a) the terms and conditions of participation in and use of the Framework Agreement or DPS must be clearly set out as part of the tender documents.</p> <p>(b) a Framework Agreement or DPS is designed to be flexible and does not guarantee selected suppliers any work or a minimum level of work.</p> <p>(c) use of the Framework Agreement must be by way of a transparent, clearly defined process.</p>
<b>Government Procurement Agreement</b>	<p>The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.</p>
<b>Head of Service</b>	<p>As identified in the Constitution.</p>
<b>High Risk</b>	<p>A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.</p>
<b>High Value</b>	<p>A high-value purchase is where the value exceeds the Regulations Threshold values</p>
<b>In-house Provider</b>	<p>The Council's in-house services and wholly owned companies which are compliant with Regulation 12 of the Regulations.</p>
<b>Invitation to Quote (ITQ)</b>	<p>Invitation to quote documents in the form required by these Contract procedure rules.</p>
<b>Invitation to Tender (ITT)</b>	<p>Invitation to tender documents in the form required by these Contract procedure rules.</p>
<b>Key Decision</b>	<p>Decisions that are defined as key decisions in the Constitution.</p>
<b>Key Performance Indicators (KPIs)</b>	<p>Measures of achievement against agreed activities that are utilised to manage the performance of the overall Contract and against which outcomes, responsive measures will be required or payments contingent.</p>
<b>Line Manager</b>	<p>The Officer's immediate superior or the Officer designated by the Head of Service to exercise the role reserved to the line manager by these Contract procedure rules.</p>

<b>Lot(s)</b>	A Lot is the segregation or grouping of a specific requirement, targeted at a particular sector of the market, so as to enable direct Contracting and supporting opportunities for smaller businesses to engage with the Council.
<b>Management Board</b>	The meeting of the Chief Executive, Corporate Directors and the Monitoring Officer.
<b>Market Engagement</b>	An engagement with the market in such a way that demonstrates market engagement has been carried out in a manner calculated to increase awareness of and interest in bidding for public Contracts.
<b>MEAT</b>	Most economically advantageous tender.
<b>Monitoring Officer</b>	As identified in the Constitution
<b>Non-commercial Considerations</b>	<ul style="list-style-type: none"> <li>(a) The terms and conditions of employment by Contractors of their workers or the composition of the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').</li> <li>(b) Whether the terms on which Contractors' Contract with their sub-Contractors constitute, in the case of Contracts with individuals, Contracts for the provision by them as self-employed persons of their services only.</li> <li>(c) Any involvement of the business activities or interests of Contractors with irrelevant fields of government policy.</li> <li>(d) The conduct of Contractors or workers in industrial disputes between them or any involvement of the business activities of Contractors in industrial disputes between other persons ('industrial disputes').</li> <li>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, Contractors.</li> <li>(f) Any political, industrial or sectarian affiliations or interests of Contractors or their directors, partners or employees.</li> <li>(g) Financial support or lack of financial support by Contractors for any institution to or from which the authority gives or withholds support.</li> <li>(h) Use or non-use by Contractors of technical or professional services provided by the authority under the Building Act 1984.</li> </ul> <p>Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff or change of service provider to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply. The restriction on non-commercial considerations</p>

does not prevent a public authority to which it applies from exercising any function regulated by this section with reference to a non-commercial matter to the extent that the authority considers it necessary or expedient to do so to enable or facilitate compliance with a duty imposed on it by section 1 of the Public Services (Social Value) Act 2012.

<b>Officer(s)</b>	The Officer designated by the Head of Service to deal with the procurement or the Contract in question.
<b>Parent Company Guarantee</b>	A Contract which binds the parent of a subsidiary company if the subsidiary company fails to do what it has promised under a Contract with the Council, the Council can require the parent company to do so instead.
<b>Pipeline</b>	The list of contracts reviewed by the Management Board from time to time
<b>Priority Services</b>	Those services required to be tendered as defined in the EU public procurement directives.
<b>Procedure</b>	The procedure required by the relevant procurement legislations, where the Total Value exceeds the UK Threshold.
<b>Procurement Strategy</b>	The document setting out the Council's approach to procurement and key priorities.
<b>Purchase Order</b>	As obtained from the Councils financial management system;
<b>Purchasing Scheme</b>	A Framework or mechanism organised by another body.
<b>Quotation(s)</b>	A Quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>Relevant Contract(s)</b>	Contracts to which these Contract procedure rules apply (see paragraph 2).
<b>Section 151 Officer</b>	The Chief Finance Officer as designated by the Council.
<b>Selection Criteria</b>	The Criteria applied to bidders to ascertain whether they can deliver the Contract.
<b>Service Level Agreement (SLA)</b>	Part of a Contract for services in which the service levels such as times, quantities or levels of performance are defined.
<b>Shortlisting</b>	The process of selecting Bidders who are to be invited to quote or bid or to proceed to final evaluation.
<b>Tender</b>	A Bidder's proposal submitted in response to an Invitation to Tender.

<b>Total Value</b>	The calculation of the total value of the Contract, net of VAT, as estimated by the Council, calculated in accordance with paragraph 3.3.
<b>TUPE Transfer of Undertakings</b>	Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private Contractor, local authority in-house team) to another (e.g. following a Contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.
<b>UK Threshold</b>	The Contract value at which the public procurement directives applied to procurements advertised prior to 1 January 2020.
<b>Value for Money</b>	Value for money is not the lowest possible price; it combines goods or services that fully meet the Council's needs, with the level of quality required, delivery at the time it is needed, and at an appropriate price.





## **THE PETITION POLICY**



## **1. Introduction**

- 1.1 Braintree District Council (the Council) values the opinion of the people within its District. The petition process allows members of the public to have direct influence on the democratic process and to raise concerns that are important to them.
- 1.2 A petition is defined as a communication in writing or using an electronic facility which is signed by the appropriate number of qualifying people. In order to fall under this Policy, the petition must have at least 30 signatories.

## **2. The Petition Organiser**

- 2.1 The Petition Organiser is the person who submits the petition to the Council. If the petition is compiled by an organisation, then they must ensure that they provide the contact details of the relevant person with who the Council can communicate with during its consideration of the petition.
- 2.2 The Council recommends that, before starting a petition, the Petition Organiser checks with the local District Councillor as they will be able to advise whether the Council is already acting on the matter and whether the Council is the most appropriate body to receive the petition.
- 2.3 It is the Petition Organisers responsibility to ensure that the petition complies with the requirements set out within this Policy and that those signing the petition are aware that the Council will publish the petition in full on its website once it has been submitted to the Council. In obtaining the signatories and submitting the petition to the Council, the Petition Organiser is confirming that they have consent from each signatory for the publication of their information.
- 2.4 If anyone under the age of 18 signs the petition, then the petition organiser must ensure that they have the parents' consent for the publication of their details contained within the petition.
- 2.5 A Member of the Council cannot start a petition or be designated as the Petition Organiser.

## **3. The Petition**

- 3.1 A petition may be started by any person who lives, works or learns within the administrative boundaries of Braintree.
- 3.2 The petition must have a clear and concise statement covering the subject of the petition and set out the action the petitioners wish the Council to take.
- 3.3 A petition may be submitted on:
  - (a) Issues relating to the Councils responsibilities; or
  - (b) Issues which affect the Braintree District or communities within the District, provided the Council is in a position to exercise a degree of influence.
- 3.4 A petition can request that:
  - (a) the Council takes action or ceases taking action; or

- (b) a matter be considered by the Chairman of the Performance Management Scrutiny Committee.
- 3.5 A petition can be submitted to the Council by sending it direct to the Governance Team, at Causeway House, Bocking End, Braintree, Essex, CM7 9HB or via email to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk).
- 3.6 In addition you can start an e-petition using the Councils website. The Council can only act upon the petition when it is closed and cannot act upon on-going or 'rolling' petitions. In establishing an e-petition the Petition Organiser will be required to indicate the period of time the e-petition will be open for. The Council recommend that a period of at least 4 weeks is used.
- 3.7 It is important that the petition is identifiable, and you may wish to design and print your own petition. However, it is important to remember that people must understand what they are signing. Therefore a petition should include:
  - (a) the name and contact details of the Petition Organiser (email and telephone numbers provided will not be published by the Council);
  - (b) a clear, concise statement covering the subject of the petition;
  - (c) a statement explaining what action the petitioners wish the Council to take; and
  - (d) the name, address and signature of the persons supporting the petition.

#### **4. Who can sign a petition?**

- 4.1 The Council will accept a petition if it is signed by people who live within the administrative boundaries of Braintree and who are recorded on the electoral register. Accordingly the full name and address must be provided by the signatory.
- 4.2 Any Member of the Council wishing to sign a petition should seek advice from the Governance Team before signing the petition.

#### **5. Petition Thresholds**

- 5.1 How the Council deal with a petition will largely be determined by how many signatures the petition contains and the subject matter.

##### **(a) A Petition signed by between 30 and 999 people:**

The Performance Management Scrutiny Committee will consider the petition and shall:

- i. determine the Petition in accordance with paragraph 7;
- ii. Refer the petition to a Chief Officer for determination; or
- iii. Refer the petition to a Cabinet Member for determination.

##### **(b) Petitions signed by between 1000 and 1,999 people:**

The petition will be considered at a meeting of Cabinet and determined in accordance with paragraph 7.

**(c) Petitions signed by 2000 or more people:**

The petition will be considered at a meeting of the Full Council and determined in accordance with paragraph 7.

**(d) Petitions requesting a Chief Officer gives evidence**

Any petition requiring a Chief Officer to give evidence at a public meeting of the Performance Management Scrutiny Committee must have at least 1000 signatures. The petition will be considered by the Chairman of the Performance Management Scrutiny Committee in the first instance and will determine whether the petition should be considered by the Performance Management Scrutiny Committee and the Chief Officer should be called to give evidence.

**6. Petition Progression**

- 6.1 All petitions will be acknowledged by the Council within 10 working days of receipt and the Petition Organiser will be kept informed throughout the Councils consideration of the petition and any action that will be taken.
- 6.2 The Council will then carry out a validation process, which will review the petition, the action the petition is seeking and verify the signatures to ensure that they meet the criteria set out in this Policy. The verification of the signatures will be based on the information provided within the petition and the Council will not seek validation of an individual's identification through alternative records. Only the verified signatures will count towards the thresholds set out above.
- 6.3 Petition submitted will be allocated to Monitoring Officer who will be responsible for the management of the progression of the petition in accordance with this Policy. The Monitoring Officer will be able to escalate the petition, if the subject of the petition is so significant that it would be appropriate for the issue to be considered by the next tier set out in paragraph 5.1.
- 6.4 If a petition is to be submitted to the Performance Management Scrutiny Committee, Cabinet or Council for consideration and debate, this will be done at the next available meeting.
- 6.5 The Petition Organiser will be invited to attend the relevant meeting and will be provided with 5 minutes at the commencement of the item to present the petition. Following which the Members of the relevant meeting will be given 30 minutes to debate the petition and the issues raised within it.

- 6.6 In considering the petition before the full Council, only a Cabinet Member or the relevant Committee Chairman will be permitted to move one of the following options:
- (a) To move a motion that no further action is required;
  - (b) To move a motion that the petition is referred to Cabinet, Council or another Committee; or
  - (c) To move a motion that some other action is taken in response to the petition, as set out in paragraph 7.1.
- 6.7 If there is no majority vote in favour of the motion, then one of the other motions stated above must be moved. For a petition before Council any other Member of Council will be permitted to move one of the other motions under this paragraph.
- 6.8 The Councils Standing Order as set out in the Constitution relating to the rules of debate and motions, are applicable to the debate and motions relating to a petition.
- 6.9 The Petition Organiser will receive written confirmation of the decision and a copy will be published on the Councils website.

## **7. The Councils Response**

- 7.1 Having considered the petition in accordance with this Policy, the Council may take any of the following actions in response to the petition:
- (a) Take the action requested within the petition;
  - (b) Decline to take the action requested within the petition;
  - (c) Recommend that an enquiry is held into the issues raised within the petition;
  - (d) Undertake research into the issues raised within the petition;
  - (e) Carry out consultation into the issues raised within the petition; or
  - (f) Refer the petition to an external organisation for consideration;
  - (g) Hold a meeting with the Petition Organiser to reach a resolution.
- 7.2 A copy of the Councils response will be published on the Councils website.

## **8. Evidence from a Chief Officer**

- 8.1 For petitions that request a Chief Officer gives evidence before the Performance Management Scrutiny Committee, the petition must relate to the Chief Officers role and cannot be about their personal circumstances or character.
- 8.2 The meeting at which the Chief Officer gives evidence will be held in public, and the Committee Members will be entitled to ask questions of the Chief Officer.

- 8.3 If appropriate, the Chief Officer will be entitled to invite other officers to attend in order to provide additional evidence.
- 8.4 After the meeting the Committee will submit a report to Cabinet setting out its findings and any recommendations it may wish to make in relation to the petition subject matter, in accordance with paragraph 7.1. The report will be considered at the next available meeting of Cabinet and a copy will be provided to the Petition Organiser.

## **9. Discounted Petitions**

- 9.1 Some petitions cannot be considered under this Policy, and those listed below will be discounted by the Council:
- (a) If a petition does not follow this Policy
  - (b) If the petition does not identify a Petition Organiser, the Council will normally contact the first signatory to the petition and ask them to agree to act as the Petition Organiser. If the first signatory is unable or unwilling to act as the Petition Organiser, then the petition will be discounted until such time as a Petition Organiser comes forward.
  - (c) if it is received within six months of another petition on the same matter. However, if two or more petitions on the same subject are received at a similar time the Petition Organisers may be contacted to determine if the petitions may be merged and considered together.
  - (d) those that the Monitoring Officer considers to be rude, frivolous, offensive, defamatory, scurrilous or vexatious;
  - (e) You can submit a petition as part of a formal consultation exercise. In this case it must be received before the date that the consultation closes or it may not be included as part of the Councils consideration of the consultation responses.
  - (f) petitions that relate to planning applications, planning policy or licensing matters, or where there is already an existing right of appeal or separate complaints process; or alternative arrangements in place;
  - (g) petitions about issues for which this Council is not responsible for and cannot influence;
  - (h) Petitions commenced through external online resources and petition websites;
  - (i) petitions relating to any individual or the personal circumstances of individual Councillors or employees of the Council or matters that should properly be dealt with under the Council's complaints procedure; or
  - (j) A statutory petition such as a request for a referendum, which will be dealt with in accordance with the statutory provisions in place at that time.
- 9.2 If the Council decides that a petition is to be discounted the Petition Organiser will be informed and an explanation will be provided.

- 10. What you can do if you think your petition has not been dealt with in accordance with this policy?**
- 10.1 If the petition Organiser feels that the Council have not dealt with the petition in accordance with this Policy, they may request that the Chairman of the Performance Management Scrutiny Committee review the process that the Council has followed in responding to the petition.
- 10.2 The Petition Organiser should put their request in writing, listing the reasons for the request. The request must be made within 10 working days of receiving the Council's written response.
- 10.3 A request will not be accepted if it is considered vexatious, abusive or otherwise inappropriate.
- 10.4 The Petition Organiser will be informed in writing of the outcome of the review by the Chairman of the Performance Management Scrutiny Committee within 10 working days of the request.