

# Notice of Audit and Governance Committee

Date: Wednesday, 1 December 2021 at 6.00 pm

Venue: Virtual



---

## Membership:

### Chairman:

Cllr J Beesley

### Vice Chairman:

Cllr L Williams

Cllr M F Brooke  
Cllr D Butt  
Cllr M Cox

Cllr L Fear  
Cllr A Filer  
Cllr M Phipps

Cllr Dr F Rice

---

All Members of the Audit and Governance Committee are summoned to attend this meeting to consider the items of business set out on the agenda below.

The press and public are welcome to view the live stream of this meeting at the following link:

<https://democracy.bcpCouncil.gov.uk/ieListDocuments.aspx?MIId=5224>

If you would like any further information on the items to be considered at the meeting please contact: on 01202 096660 or email [democratic.services@bcpCouncil.gov.uk](mailto:democratic.services@bcpCouncil.gov.uk)

Press enquiries should be directed to the Press Office: Tel: 01202 118686 or email [press.office@bcpCouncil.gov.uk](mailto:press.office@bcpCouncil.gov.uk)

This notice and all the papers mentioned within it are available at [democracy.bcpCouncil.gov.uk](https://democracy.bcpCouncil.gov.uk)

GRAHAM FARRANT  
**CHIEF EXECUTIVE**

23 November 2021



Available online and  
on the Mod.gov app



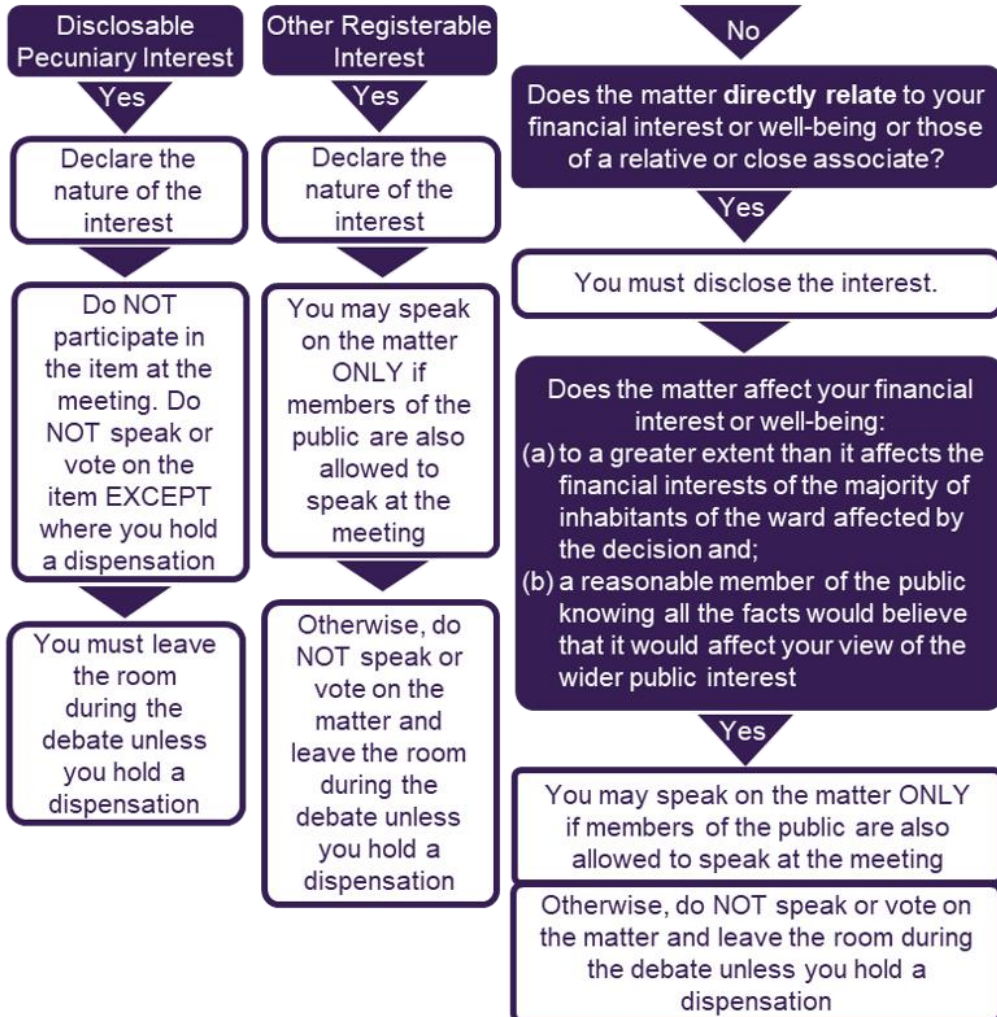
## Maintaining and promoting high standards of conduct

### Declaring interests at meetings

Familiarise yourself with the Councillor Code of Conduct which can be found in Part 6 of the Council's Constitution.

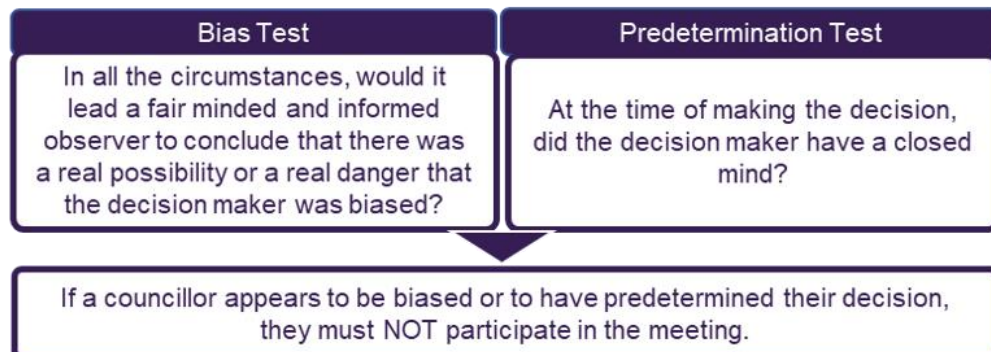
Before the meeting, read the agenda and reports to see if the matters to be discussed at the meeting concern your interests

Do any matters being discussed at the meeting directly relate to your registered interests?



What are the principles of bias and pre-determination and how do they affect my participation in the meeting?

Bias and predetermination are common law concepts. If they affect you, your participation in the meeting may call into question the decision arrived at on the item.



For more information or advice please contact the Monitoring Officer  
([susan.zeiss@bcpcouncil.gov.uk](mailto:susan.zeiss@bcpcouncil.gov.uk))

### Selflessness

Councillors should act solely in terms of the public interest

### Integrity

Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships

### Objectivity

Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

### Accountability

Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this

### Openness

Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing

### Honesty & Integrity

Councillors should act with honesty and integrity and should not place themselves in situations where their honesty and integrity may be questioned

### Leadership

Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

# AGENDA

Items to be considered while the meeting is open to the public

## 1. Apologies

To receive any apologies for absence from Councillors.

## 2. Substitute Members

To receive information on any changes in the membership of the Committee.

Note – When a member of a Committee is unable to attend a meeting of a Committee or Sub-Committee, the relevant Political Group Leader (or their nominated representative) may, by notice to the Monitoring Officer (or their nominated representative) prior to the meeting, appoint a substitute member from within the same Political Group. The contact details on the front of this agenda should be used for notifications.

## 3. Declarations of Interests

Councillors are requested to declare any interests on items included in this agenda. Please refer to the workflow on the preceding page for guidance.

Declarations received will be reported at the meeting.

## 4. Public Issues

To receive any public questions, statements or petitions submitted in accordance with the Constitution. Further information on the requirements for submitting these is available to view at the following link:-

<https://democracy.bcpccouncil.gov.uk/documents/s2305/Public%20Items%20-%20Meeting%20Procedure%20Rules.pdf>

The deadline for the submission of public questions is 24 November 2021.

The deadline for the submission of a statement is 12.00 noon on 30 November 2021.

The deadline for the submission of a petition was 12.00 noon 16 November 2021.

## 5. Report of the Constitution Review Working Group - Changes to the Constitution

The report summarises the issues considered by the Constitution Review Working Group and sets out a series of recommendations arising from the Working Group for consideration by the Committee.

Any recommendations arising from the Committee shall be referred to full Council for adoption.

This report is to be considered by a special virtual non-decision making meeting on 1 December 2021 which shall be live-streamed for the public viewing, and subsequently at the ordinary meeting of the committee on 2 December 2021. The outcome of the virtual meeting shall form the basis of the recommendations on 2 December.

5 - 212

No other items of business can be considered unless the Chairman decides the matter is urgent for reasons that must be specified and recorded in the Minutes.

## AUDIT AND GOVERNANCE COMMITTEE



Report subject	<b>Report of the Constitution Review Working Group - Changes to the Constitution</b>
Meeting date	1 December 2021
Status	Public Report
Executive summary	<p>The report summarises the issues considered by the Constitution Review Working Group and sets out a series of recommendations arising from the Working Group for consideration by the Committee.</p> <p>Any recommendations arising from the Committee shall be referred to full Council for adoption.</p> <p>This report is to be considered by a special virtual non-decision making meeting on 1 December 2021 which shall be live-streamed for the public viewing, and subsequently at the ordinary meeting of the committee on 2 December 2021. The outcome of the virtual meeting shall form the basis of the recommendations on 2 December.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <p><b>(a) the views and recommendations of the Constitution Review Working Group, as set out in this report at paragraphs 19, 25, 36, 44, 60, 67, be supported;</b></p> <p><b>(b) that necessary and consequential technical and formatting related updates and revisions to the Constitution be made by the Monitoring Officer in accordance with the powers delegated.</b></p>
Reason for recommendations	To make appropriate updates and revisions to the constitution following consideration by the Working Group.



Portfolio Holder(s):	Councillor Drew Mellor (Leader of the Council and Portfolio Holder for Finance and Transformation)
Corporate Director	Graham Farrant (Chief Executive)
Report Authors	Richard Jones (Head of Democratic Services) Susan Zeiss (Director of Law and Governance and Monitoring Officer)
Wards	Not applicable
Classification	For Recommendation

### **Background and Method of Working**

1. The Terms of Reference of the Audit and Governance Committee include 'Maintaining an overview of the Council's Constitution and governance arrangements in all respects'.
2. In discharge of this responsibility the Committee established a Constitution Review Working Group of five of its Councillors. The current members of the Working Group are Councillor Williams (Chairman), Councillor D Butt (Vice-Chairman) and Councillors Beesley, Brooke and Trent. Since its establishment, the Working Group has continued to meet on a regular scheduled basis. The Group receives advice from the Monitoring Officer.
3. From time to time, as required, Officers and Members with specialist responsibility such as the Chairs of the Planning Board and the Licensing Committee, for example, have been invited to have an involvement.
4. The Working Group has considered suggestions received from a wide variety and range of sources including input from Councillors and from Officers. Prior to commencement of its work, the Chairman of the Audit and Governance Committee wrote to all members of Council asking them to submit items for discussion and consideration.
5. In order to provide independent challenge and to draw on best practice, the Monitoring Officer engaged Weightmans Law Firm to undertake a comprehensive review. The feedback and suggestions from this independent review have been incorporated into the proposed changes.

### **Format**

6. Many of the requests from councillors and officers have been previously considered by the Working Group, referenced to the Audit and Governance Committee and, where appropriate, debated and approved by Council. These are included within the current published version of the Constitution available on the Council website.
7. The current version of the Constitution was last updated to reflect the changes agreed by the Council on 22 June 2021.

8. Since June, a number of other proposed changes, though carefully considered, have not yet been approved by the Audit and Governance Committee. These are set out within this report.
9. Subject to these matters, a copy of the revised Constitution is enclosed with this report and, once considered by the Audit and Governance Committee will be submitted to Council for adoption.
10. The Constitution will include a number of formatting and presentation changes which will improve the way it is used and applied, including the introduction of indexing, although this will be applied following final adoption.
11. Two versions of the new proposed Constitution are being made available. The version appended within the agenda is a clean version which is easier to read. An additional version has also been published as a supplement which shows the proposed changes using the 'track changes' feature. For ease of reading typographical corrections and changes which simply involve the movement of specific provision elsewhere within the Constitution are not necessarily shown. Members should rest assured that where provisions have been moved and not highlighted the content has not been altered.
12. The remainder of this report makes specific references to key changes considered by the Constitution Review Working Group. The following section references Constitution-wide changes with subsequent sections referencing changes by the relevant parts of the Constitution.

### **Constitution-wide Changes and Principles**

13. The structure and content of the existing Constitution was developed at significant pace in the months leading to Local Government Review in early 2019 and whilst it was functionally complete, it was necessary at the time to develop specific provisions and rules in isolation and often referenced as appendices.
14. This has made the operational use of the Constitution confusing at times, necessitating cross-referencing of various document parts to fully interpret and draw a conclusion on specific issues. As a consequence, the content of individual appendices has been reviewed and incorporated within the core document to ease reference.
15. The revised Constitution remains a complex document, however, the changes are considered to be an improvement.
16. Furthermore, the Constitution refers to various protocols adopted by individual committees, etc., however, these have not previously formed part of the Constitution document. It is not proposed to change the delegation to adopt these protocols, however, for completeness and ease of reference, these have now been incorporated into the new version.
17. It was previously acknowledged that gender-specific pronouns would be replaced during the fundamental review of the Constitution. These have been removed in this version together with the replacement of Chairman and Vice-Chairman with Chair and Vice-Chair.

### **Part 1 – Constitution Summary and Explanation**

18. There are no significant changes proposed to this part of the Constitution. This part is an introduction to the Constitution and acts as a guide to readers navigate the

component parts. The changes marked provide clarity and correct anomalous references.

## **19. RECOMMENDATION**

**It is RECOMMENDED that the proposed changes to Part 1 (Constitution Summary and Explanation) be adopted.**

## **Part 2 - Articles of the Constitution**

20. The articles now include an improved content schedule to ease reference and navigation to individual component articles.
21. A number of changes throughout the articles and other parts have been drawn from Weightmans drawing on best practice. These are shown within the document.

### **Order of business at Council**

22. It was noted that the order of business at the Council meeting was not something that was currently prescribed in the Constitution. Although there was the opportunity to canvass the views of members and particularly the Chairman of the Council. The majority view of the Working Group was that the 'Questions from Members' item should be at the end of the meeting.
23. It was agreed by the Working Group that this matter should go forward to the A&G Committee. Article 4 (Full Council), paragraph 4.3, includes draft wording which seeks to reflect the ambition of the proposal.

### **Article 15 (Covid-19 Response Period)**

24. Article 15, which was introduced in response to the Covid-19 pandemic and subsequent temporary legislation, made specific decision-making provisions to permit decision-making arrangements to continue, in the main without in-person meetings. The temporary legislation has now expired and this Article is no longer required. There were some provisions within the temporary Article relating to the publication and access to information and notices principally by electronic means, which the Constitution Review Working Group wished to be maintained and these have been incorporated in the Constitution accordingly.

## **25. RECOMMENDATION**

**It is RECOMMENDED that the proposed changes to Part 2 (Articles of the Constitution) be adopted.**

## **Part 3 - Responsibility for Functions**

26. The structure of this Part of the Constitution has been remodelled taking into consider best practice guidelines and incorporates, in particular, a more detailed scheme of delegation to officers.

### **Overview and Scrutiny Development**

27. The Working Group considered a paper which set out options to establish an additional Overview and Scrutiny Committee focussed on environmental matters and which would be known as the 'Place Overview and Scrutiny Committee'.



28. Informal discussions with all Overview and Scrutiny Chairs identified an appetite to establish an additional Overview and Scrutiny Committee, transferring some of the responsibilities from the Board's remit.
29. Effective Governance workshops were held in November 2020 and April 2021 for all councillors, with support provided by the LGA. A general theme in the comments made by councillors was the need for non-executive councillors to be more engaged in decision making, and importantly at an earlier stage.
30. Engagement has also been undertaken with political group leaders and non-aligned councillors on potential changes to the O&S Structure, from which there was general support. The proposed remit of an additional committee is set out in Part 3, paragraphs 4.7 and 4.8. The committee would meet and operate on the same basis as the two existing Overview and Scrutiny Committees.
31. The establishment of a more focussed scrutiny committee on place related and climate change issues, and in turn a more defined remit for the O&S Board, should give rise to greater development of councillors' knowledge as they focus on a smaller collection of topics. A natural consequence of this should be more targeted work planning, which may enable the committees to focus on their own work suggestions, rather than predominantly Cabinet related scrutiny. Improved agenda capacity would also provide potential for greater and more effective space for community insight to play a bigger role in scrutiny. This has often been the first element to be lost from the scrutiny process when agendas are regularly too full.
32. The Authority originally agreed a total of 22 scheduled O&S meetings per year, plus one working group per committee at any one time. This was based on the resources available from Democratic Services and other officers in the wider council to provide support.
33. Since 2019, the Council has absorbed 10 additional ordinary O&S Board meetings per year, whilst ongoing organisational review of staffing structures and budget constraints has resulted in an overall reduction in staffing levels within the team. The introduction of a new O&S committee comprising 11 members, meeting 6 times per annum, would be offset by a reduction of Board meetings returning to 10 per annum. The net result would be a total of 28 meetings per year, not including special meetings. Whilst this is still a net increase of six above the number originally agreed for O&S in 2019, it is considered to be more sustainable for officers to support than the current arrangements.

#### **Financial implications of Additional Committee**

34. If an additional Committee is established within the Overview and Scrutiny structure, there will be an additional Special Responsibility Allowance for the Chair of that Committee. The current SRA paid to the Chair of the Health and ASC Committee and the Children's Services Overview and Scrutiny Committee is £7,706. Whilst the payment for Chair of the O&S Board is £10,275. A review of the remunerations may be required through the independent remuneration panel, however, it is likely that the new Committee Chair will attract the same SRA as the existing committee Chairs of £7,706. This is not budgeted and would be a growth in the Members Allowances' budget.
35. If supported by the Council, it is suggested that the new Committee should be established from the Annual Meeting of Council in May 2022. This will not only allow for budget provision to be agreed, but would also provide an opportunity for the Overview and Scrutiny Board to review its Work Plan over the next few months.

### **36. RECOMMENDATION**

**It is RECOMMENDED that a Place Overview and Scrutiny Committee comprising 11 members, meeting six times per annum be established from the Annual Meeting of Council in May 2022 with the remit as outlined in Part 3, paragraphs 4.7 and 4.8 of the proposed Constitution.**

#### **Appeals Committee - Employee Appeals - member involvement in Employee appeals against dismissal**

37. The Constitution Working Group were invited to consider a change in the Council's Constitution in relation to employment appeals against dismissals. The report, which was presented by the Head of Human Resources and Organisational Development, provided background to a proposal that staffing appeals against dismissal should be heard by an independent senior BCP Council Officer at tier 3 level supported by an HR professional advisor, rather than the Member Appeals Committee.
38. The report included reference to legal and best practice advice and it was confirmed that there was no legal requirement for Councillors to be involved. Results of a survey undertaken by SW Councils demonstrated that only 4 out of the 10 respondent Local Authorities had appeals that were led solely by Councillors.
39. There was a unanimous view within the Working Group that elected Members brought an essential independence to the process which often included the benefit of their own personal experience and background.
40. The Working Group agreed that the present system of appeals involving Councillors through the Appeals Committee should be retained, however, it was considered that the Audit and Governance Committee should consider the matter further and determine whether to recommend a change to Council.
41. The Committee is therefore requested to consider whether the existing arrangements for employment appeals against dismissals should be changed.

#### **Scheme of Delegation to Officers**

42. The existing scheme has been updated to capture greater detail of specific delegations to officers to provide greater transparency and accountability. This change is a significant change from the current arrangements and may require further revision to reflect operational requirements.
43. The scheme also includes additional references and appendices relating to RIPA, the designation of proper officer and councillor and officer indemnities.

### **44. RECOMMENDATION**

**It is RECOMMENDED that the proposed changes to Part 3 (Responsibility for Function and Officer Scheme of Delegation) be adopted.**

### **Part 4 Procedure Rules**

45. The existing Constitution contains 14 parts, sub-parts and appendices to the Procedure Rules. These are:-

Part A – Access to Information Procedure Rules

Part B – Cabinet Procedure Rules

Part C – Overview and Scrutiny Procedure Rules

Part D – Meeting Procedure Rules

Sub-Part A – Council Meetings

Sub-Part B – Committee and Sub-Committee Meetings

Sub-Part C – General Provisions

Plus a series of 7 separate appendices relating back to one of the Sections or Sub-Parts listed above.

46. This structure has proved to be unnecessarily complex and increased the risk of incorrect rules being applied. The fundamental review of this structure has been a key focus of the work of the Working Group and resulted in a significantly simplified product.
47. It has still been necessary to maintain the four component sections to the Procedure Rules, however, incorporating all the sub-parts and appendices within the core suite of rules has proved significantly advantageous. References to applicable legislative provisions and constraints of procedure rules in the margins will also assist with interpretation and application.

### **Specific Changes to Procedure Rules**

48. The procedure rules relating to the behaviour of councillors in meetings has been revised to explicitly provide for an initial warning to a councillor who is perceived to be misconducting themselves, before proceeding to a formal motion to silence or remove the councillor. This is consistent with the procedures for disruptive behaviour by the public.
49. The procedure rules relating to voting have also been altered to require the person presiding at the meeting to invite any councillor who may wish to vote against or abstain from a vote to so indicate where there is clear majority in favour of a proposal.

### **August Recess**

50. Councillor J Butt had been invited to the Working Group to outline her proposals for the Constitution to prescribe a period of annual recess during the month of August and although recognising the need to retain essential meetings such as Planning and Licensing, outlined the benefits for Councillors and staff of the proposal. The Working Group considered the practical implementation issues including the need to allow for preparation and pre-scrutiny of matters being considered by scheduled Committee in September.
51. It was agreed by the Working Group that this matter should go forward to the Committee for consideration. Part 4D (Meeting Procedure Rules), paragraph 1.1 includes draft wording which seeks to reflect the ambition of the proposal.

### **Member Questions at Council**

52. The Working Group reviewed the current practice and the impact that this part of the agenda was having upon the effective conduct of Council business. There was agreement about maintaining the important opportunity for Councillors to raise questions themselves or to highlight specific issues on behalf of their constituents. The current practice needed to be carefully managed to prevent a negative impact.

53. The Working Group considered how questions remaining unanswered at the 30 minute cut-off point should be dealt with. It was noted that to include the responses within the Minutes would require specific provision within the Constitution. There was also the possibility of using the IT system to quickly circulate responses after the meeting
54. The Working Group agreed that
- (a) Subject to retention of Chairman's discretion, 30 minutes was the right length of time within the Council meeting for Councillors questions;
  - (b) No speech, question or answer should exceed 3 minutes (that is, to extend existing 3 minute limit on speeches rule to include questions and answers - maximum 3 minutes each)
  - (c) Further discussion was required around how to deal with questions still remaining unanswered after the 30 minute time cut-off had been applied.
  - (d) And that, subject as set out above, this matter should go forward to the A&G Committee
55. Part 4D (Meeting Procedure Rules), paragraph 13.5 includes draft wording which seeks to reflect the ambition of the proposal.

#### **Voting at Council (where there is consensus)**

56. The Working Group supported the proposal to not hold a full count of votes when there was a clear consensus at a council meeting. The proposal "That where there is a clear majority in favour of a proposal the Chairman will ask if any Councillor wishes to vote against or abstain from a proposal" was supported.
57. It was agreed by the Working Group that this matter should go forward to the A&G Committee. Part 4D (Meeting Procedure Rules), paragraph 17.1 includes draft wording which seeks to reflect the ambition of the proposal.

#### **Petitions at Council**

58. The Working Group considered a request to refer petitions automatically to another committee or body of the Council. The Working Group reviewed the provisions of the Petition Scheme and considered that there was sufficient scope and flexibility to respond appropriately to petitions received.
59. The Working Group agreed that no changes should be made to the existing Petition Scheme.

#### **60. RECOMMENDATION**

**It is RECOMMENDED that the proposed changes to Part 4 (Procedure Rules) be adopted.**

#### **Part 5 – Financial Regulations**

61. Part 5 (Financial Regulations) was not considered as part of this review.

## **Part 6 - Code of Conduct and Protocols**

62. This part of the Constitution has previously only contained the Code of Conduct for Councillors, the Protocol for Councillor / Officer Relations and the Arrangements for dealing with allegations of breach of the Code of Conduct for Councillors.
63. In addition to the above, there are a series of other Protocols which other committees adopt which relate to governance arrangements but are not contained within the Constitution. The Working Group is proposing that these additional protocols are published within this part of the Constitution for ease of reference and completeness, whilst recognising that any review and update should be retained by the respective committee.
64. The additional protocols added to Part 6 includes:-
- Planning Committee - Site Visit Protocol
  - Licensing Committee and Sub-Committee - Protocol for Public Speaking
  - Licensing Committee and Sub-Committee - Protocol for Public Representation at Virtual Meetings
  - Licensing Committee and Sub-Committee - Site Visit Protocol
65. In addition, the Working Group considered a new Local Code of Best Practice relating to Planning Matters applies to every councillor irrespective of whether or not they are a member of the Planning Committee. It also applies to all officers. It is supplemental to, and should be read in conjunction with, the Code of Conduct for Councillors and as such is considered to form an integral part of Part 6. Future iterations of this Code should be considered and recommended by the Audit and Governance Committee for adoption by Council.
66. The Working Group further considered the arrangements for dealing with allegations of breach of the Code of Conduct and considered that the Monitoring Officer should have extended remit in the initial assessment of complaints to reject, dismiss and agree an informal resolution where it is considered appropriate. In addition, the Working Group supported the inclusion of the criteria used when determining that no further action should be taken on a complaint.

### **67. RECOMMENDATION**

**It is RECOMMENDED that the proposed changes to Part 6 (Code of Conduct and Protocols) be adopted.**

## **Part 7 - Member Allowances**

68. Part 7 (Members Allowances) was not considered as part of this review part of this review

## **Summary of financial implications**

69. Paragraph 34 identifies that the establishment of an additional Overview and Scrutiny Committee will require the payment of an additional Special Responsibility for the appointed Chair. The estimated cost of the SRA is £7,706 per annum. It is proposed that the new committee is established from May 2022 and therefore the

additional amount would required inclusion in the 2022/23 Revenue Budget for Members Allowances.

### **Summary of legal implications**

70. The Constitution of the BCP Council complies with relevant legislation

### **Summary of human resources implications**

71. There are no human resource implications arising from this report.

### **Summary of sustainability impact**

72. There are no sustainability implications arising from this report.

### **Summary of public health implications**

73. There are no public health implications arising from this report.

### **Summary of equality implications**

74. The Constitution of the BCP Council sets out the rights of public access to the democratic process. Where appropriate the Equality Officer was engaged on relevant issues.

### **Summary of risk assessment**

75. The Constitution is a legally required document which prescribes the procedural and democratic arrangements for the proper governance of the Council.

### **Background papers**

None

### **Appendices**

Draft Revisions to Part 1, 2, 3 4 and 6 the Constitution

# PART 1

## SUMMARY AND EXPLANATION



# **Part 1 - Constitution - summary and explanation**

## **1. General**

- 1.1. The Council's Constitution sets out rules and procedures which explain how Council business is done and how decisions are made. This introduction should help you find what you are looking for in the Constitution.
- 1.2. Some of the processes in the Constitution are required by law while others are considered by the Council to be necessary to ensure that it operates effectively and efficiently; and in the interests of the people it serves.

## **2. The Constitution and its Content**

- 2.1. The Constitution is divided into seven parts.

Part 1 sets out an explanation of what the Council is and how it works.

Part 2 sets out the formal articles of the Constitution:

Article 1	The Constitution;
Article 2	Councillors;
Article 3	Rights and Responsibilities of Members of the public;
Article 4	The Full Council;
Article 5	The Role of the Chair of the Council;
Article 6	Overview and Scrutiny;
Article 7	The Leader of the Council and the Cabinet;
Article 8	Other Committees;
Article 9	Joint Arrangements;
Article 10	Arrangements for promoting good standards of behaviour by Councillors;
Article 11	Officers;
Article 12	Decision Making;
Article 13	Legal Matters;
Article 14	Review, Revision, Suspension, Interpretation and Publication of the Constitution; and

Part 3 sets out the responsibility of bodies and individuals for various functions carried out by the Council in relation to the exercise of its powers.

Part 4 contains the Rules of Procedure which are designed to regulate the conduct of the Council's business to ensure decisions are made in accordance with the law and the wishes of the Council.

Part 5 contains the Financial Regulations which provide the governance framework for managing the Council's financial affairs.

Part 6 includes the Code of Conduct for Councillors which is designed to ensure that Councillors carry out their duties to the highest ethical standards. It also includes a protocol on Member/Officer Relations.

Part 7 covers the Scheme of Councillors' Allowances.

### **3. The Council and how it operates in making decisions**

- 3.1. The Council is composed of 76 Councillors elected every 4 years. Councillors are democratically accountable to the residents of their Ward. Councillors have a responsibility to the whole community, but in particular, to their ward residents, including those who did not vote for them.
- 3.2. The Council employs staff (Officers) whose job is to assist and advise Councillors and provide the services of the Council.
- 3.3. All Councillors meet together as a Full Council, approximately six times per year. Meetings of the Council are normally open to the public. Full Council is responsible for approving certain specific key policies for the Council and setting the budget and Council Tax each year.

#### **The Cabinet**

- 3.4. Every 4 years the Council appoints a Leader of the Council. The Leader appoints an additional number of Councillors to act as members of the Cabinet (not more than 10 in total including the Leader and a Deputy Leader). The Leader of the Council may appoint a Deputy Leader and may ask members of the Cabinet to take lead responsibility for specific services (usually referred to as Portfolio Holders). These are usually themed around the Council's main priorities.
- 3.5. The Cabinet is the part of the Council which is responsible for most day to day decisions. The Cabinet can make decisions that are in line with the Council's key policy framework and budget.
- 3.6. The Leader of the Council may also appoint up to six Lead Members to provide advice and support to the relevant Cabinet members. Lead Members do not have any delegated powers to take individual decisions.

#### **Other Committees**

- 3.7. Important decisions relating to planning and licensing matters are dealt with by separate Committees known collectively as Regulatory Committees. These are the Planning Committee and the Licensing Committee.
- 3.8. The Standards Committee deals with the conduct of Councillors and is responsible for ensuring the arrangements the Council has to deal with complaints against Councillors are effective and that the Council operates to high ethical standards. The Audit and Governance Committee has responsibility for oversight of the Council's corporate governance arrangements and financial affairs. There are a number of other Committees which perform specific functions including some which operate jointly with other councils. The details are set out in the Articles in Part 2 of this Constitution.

## **Overview and Scrutiny**

- 3.9. Councils operating a Leader and Cabinet model must make provision for at least one Overview and Scrutiny Committee. There is no single definition of Overview and Scrutiny. It is generally viewed as an umbrella term covering a wide range of possible roles. The Bournemouth, Christchurch and Poole Overview and Scrutiny function is based upon six principles:
1. Contributes to sound decision making in a timely way by holding decision makers to account as a 'critical friend'
  2. A member led and owned function – seeks to continuously improve through self-reflection and development
  3. Enables the voice and concerns of the public to be heard and reflected in the Council's decision-making process
  4. Engages in decision making and policy development at an appropriate time to be able to have influence
  5. Contributes to and reflects the vision and priorities of the council
  6. Agile – able to respond to changing and emerging priorities at the right time with flexible working methods
- 3.10. The Overview and Scrutiny Committees are appointed by full Council.

## **4. How can I participate?**

- 4.1. The Council encourages every resident to register on the Council's Register of Electors and to vote in every local and national election that is organised. Further information can be obtained from the Council's website.
- 4.2. Residents have the right to contact their local Ward Councillors for assistance or about matters of concern. Contact details can be found on the website.
- 4.3. Most Council, Cabinet and Committee meetings will be open to the public and members of the public are welcome to attend. Agendas and reports are available on the Council's website in advance, as is the Calendar of Meetings for each Municipal Year (May to May). If the public require these documents in another format, we will do our best to assist.
- 4.4. The Constitution gives residents and others certain rights and opportunities to participate in decision making and contribute to certain meetings. These will depend upon the nature of the meeting and the procedures for asking questions, submitting petitions and taking part in certain meetings are contained within this Constitution and set out on the Council's website.
- 4.5. Public engagement is a guiding principle of Overview and Scrutiny. The public can get involved in Overview and Scrutiny in a number of ways, for example by:
  - attending meetings of the Committees;

- contributing evidence to an Overview and Scrutiny review;
- suggesting topics to be considered for Overview and Scrutiny;

## **5. What if I am not happy?**

- 5.1. The Council operates a corporate complaints system, details of which can be obtained from the website or by contacting the Council by telephone.
- 5.2. If you think that a Councillor has breached the Code of Conduct, then you may lodge a complaint and details of the procedure are set out on the website or can be obtained by contacting the Council by telephone.
- 5.3. The Local Government Ombudsman will investigate cases where the Council's own complaints mechanism has not provided an adequate resolution of issues.

## **6. More information**

- 6.1. For more information regarding any of the matters in this introduction, please refer either to the relevant section of the Constitution, or to the Council's Monitoring Officer or Democratic Services team. Contact details are published on the Council's website, and can also be obtained by contacting the Council's Customer Services.

This page is intentionally left blank

# PART 2

## ARTICLES OF THE CONSTITUTION

<b>Article Number</b>	<b>Article Heading</b>	<b>Page Number</b>
Article 1	The Constitution	2
Article 2	Councillors	3
Article 3	Rights and Responsibilities of Members of the public	5
Article 4	The Full Council	7
Article 5	The Role of the Chair of the Council	9
Article 6	Overview and Scrutiny	11
Article 7	The Leader of the Council and the Cabinet	14
Article 8	Other Committees	17
Article 9	Joint Arrangements	18
Article 10	Arrangements for Promoting Good Standards of Behaviour by Councillors	19
Article 11	Officers	20
Article 12	Decision Making	23
Article 13	Legal Matters	25
Article 14	Review, Revision, Suspension, Interpretation and Publication of the Constitution	26

# **Article 1 - The Constitution**

## **1.1. Powers and Duties of the Council**

The powers and duties of the Council are established by legislation and clarified through statutory guidance and case law. The Council will exercise those powers and duties in accordance with the law and this Constitution.

## **1.2. The Constitution**

The Council's Constitution includes all those parts listed in the Summary and Explanation at Part 1 of this Constitution.

## **1.3. Purpose of the Constitution**

1.3.1. The purpose of this Constitution is to:

- a) provide a framework within which the Council can establish and achieve its priorities and provide effective and accountable local leadership;
- b) enable decisions to be taken transparently, efficiently and effectively;
- c) provide a robust and effective overview and scrutiny function;
- d) ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making the decision; and
- e) ensure that those responsible for decision making can be clearly identified and that they can explain the reasons for their decisions.

1.3.2. The Council will ensure that the Articles, Procedural Rules and Protocols in this Constitution reflect and deliver the purpose set out above.



## **Article 2 – Councillors**

### **2.1. Composition**

The Council shall comprise 76 elected Councillors. Councillors shall be elected by the voters of each electoral ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England. Further information on the Councillors can be found on the Council's website.

### **2.2. Term of Office**

The term of office for 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.

### **2.3. Role of Councillors**

The key responsibilities of the Councillors are to:

- 2.3.1. Participate in the approval of the Council's key plans, policies and strategies as required by law and take decisions on such matters as must be reserved to the Full Council by law or as provided for in this Constitution.
- 2.3.2. Oversee the Council's strategic and corporate management.
- 2.3.3. Represent their communities and the views of their electorate in the decision-making process.
- 2.3.4. Support, as appropriate, individuals in their dealings with the Council and represent them in seeking to resolve particular concerns or grievances.
- 2.3.5. Balance the different interests of people within their ward with a view to representing their ward as a whole.
- 2.3.6. Participate, as appropriate, in the decision-making, and overview and scrutiny processes.
- 2.3.7. Maintain the highest standards of conduct and ethics and observe the Council's Code of Conduct for Elected Councillors.

### **2.4. Councillors' Representational Roles**

- 2.4.1. All Councillors represent their wards and the Council considers this to be an important role and responsibility under this Constitution.
- 2.4.2. Councillors have an important job in consulting their communities on the development of policies, plans and strategies and other local initiatives.
- 2.4.3. The Council will ensure in its processes that appropriate procedures are in place so that Councillors can contribute to the Council's business on behalf of their local community both in terms of policy development and decision making.

## **2.5. Councillors' Rights**

- 2.5.1. Councillors will have rights of access to any document, information, land or buildings of the Council where this is necessary for the proper discharge of their functions as a Councillor and in accordance with the law and this Constitution.
- 2.5.2. A Councillor is not permitted to make available to the public or divulge to anyone, other than a Councillor or Officer entitled to know it, any information which they have been sent or given in whatever form and which is exempt or confidential information without first obtaining consent properly given on behalf of the Council.
- 2.5.3. For these purposes “exempt” and “confidential” includes those classes of information defined in the Access to Information Procedure Rules which are set out at Part 4A of this Constitution as well as information which is confidential in the wider sense.

## **2.6. Conduct of Councillors**

All Councillors are required to observe the Councillors' Code of Conduct and to have appropriate regard to such other protocols, policies, guidance and advice as may be issued from time to time through the Council's formal processes.

## **2.7. Councillors' Scheme of Allowances**

All Councillors shall be entitled to receive such allowances as are contained within the Scheme of Allowances set out in Part 7 of this Constitution.

## **2.8. Councillor Support**

The Council will provide support to Councillors as appropriate to enable them to fulfil their roles and responsibilities. This support will include provision of appropriate IT equipment, information, induction and ongoing training relevant to the role.

## **Article 3 - Rights and Responsibilities Members of the Public**

### **3.1. Rights of the Public**

Members of the public have the following rights:

**3.1.1. Information.** In accordance with the statutory framework and this Constitution, the public have the right to:

- a) access information, subject to such constraints as may be imposed, by law and as set out in the Access to Information Procedure Rules at Part 4A of this Constitution;
- b) attend meetings of the Council and its Committees and Sub-Committees except where exempt or confidential information is likely to be disclosed, and the meeting is therefore held in private;
- c) attend public meetings of the Cabinet except where exempt or confidential information is likely to be disclosed, and the meeting is therefore held in private;
- d) access the Council's Forward Plan of Key Decisions to be taken by the Cabinet;
- e) inspect reports, background papers and any records of decisions made by: the Council; the Cabinet; a Committee; Sub-Committee; the Leader or a Portfolio Holder subject to the provisions on exempt or confidential information; and
- f) inspect the Council's accounts and to make their views known to the external auditors where appropriate.

**3.1.2. Participation.** Subject to the terms of this Constitution, the public have the right to:

- a) ask questions, make statements or present petitions at designated meetings in accordance with such procedures as the Council may determine from time to time; and
- b) contribute to work undertaken by the Overview and Scrutiny Committees where invited to do so.

**3.1.3. Reporting on meetings.** Subject to the guidelines published on the Council's website and available at meetings, the public have the right to:

- a) film, audio record or report on meetings of the Council and its Committees and Sub-Committees and the Cabinet.

**3.1.4. Providing feedback.** The public has the right to:

- a) Complain to the Council where there is an alleged breach of the Councillors' Code of Conduct

### **3.2. Responsibilities of the Public**

The Public must not:

- a) be disruptive of the proceedings of meetings;
- b) use violent, abusive or threatening behaviour in any form against any Councillor, Officer or persons acting for or on behalf of the Council; or
- c) Wilfully harm or damage property, assets and other resources of the Council, Councillors, Officers or persons acting for or on behalf of the Council.

## **Article 4 - The Full Council**

### **4.1. Functions**

The Council will be responsible for the adoption of the Council's budgetary and key policy frameworks.

#### **4.1.1. Key Policy Framework**

The Key Policy Framework shall mean the Corporate Plan and any policy or strategy required by law or by the Council to be approved by Full Council including the following:

- a) Children and Young People's Plan;
- b) Crime and Disorder Reduction Strategy;
- c) Development Plan Documents;
- d) Licensing Authority Policy Statements;
- e) Local Transport Plan;
- f) Youth Justice Plan;
- g) Housing Strategy;
- h) Corporate Plan; and
- i) Annual Senior Officer Pay Policy Statement.

#### **4.1.2. Budgetary Framework**

The Budgetary Framework shall mean:

- a) The Revenue Budget;
- b) The Capital Programme;
- c) Capital Strategy;
- d) Medium Term Financial Plan; and
- e) To the extent it is not covered by a) to d) above:
  - (i) any plan or strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue provision; and
  - (ii) any other financial requirements that legislation expressly requires to be determined by Full Council.

4.1.3. The Council's functions are set out fully in Part 3 of this Constitution.

### **4.2. Council Meetings**

4.2.1. There are three types of Council meeting:

- a) the Annual Meeting;

- b) Ordinary Meetings; and
- c) Extraordinary Meetings,

and they will be conducted in accordance with the Procedural Rules at Part 4D of this Constitution.

4.2.2. Full Council will normally have six Ordinary Meetings a year plus the Annual Meeting unless it determines otherwise.

### **4.3. Order of Business**

4.3.1. Save for any statutory items of business, the order of business at Ordinary Meetings will be as follows:-

1. Apologies
2. Declarations of Interest
3. Confirmation of Minutes
4. Announcements and Introductions from the Chairman
5. Public Issues (Questions, Statements and Petitions)
6. Recommendations from Cabinet and Other Committees
7. Other Direct Reports to Council for Determination (e.g., Scheme of Members Allowances, Outcome of Ombudsman Complaints, etc.)
8. Notices of Motion under Procedure Rule 9
9. Questions from Councillors
10. Urgent Decisions taken by the Chief Executive

### **4.4. Conduct of Council Meetings**

Council meetings will be conducted in accordance with the law and the Procedure Rules as set out at Part 4D of this Constitution.

## **Article 5 - The Role of the Chair of the Council**

### **5.1. Chair**

The Chair will be elected by the Council at its annual meeting. The Vice-Chair will be elected at the same meeting. The Chair and Vice-Chair shall not be members of the Cabinet.

### **5.2. Vice-Chair**

5.2.1. The Vice-Chair will:

- a) support the Chair in their civic role;
- b) carry out civic duties as appropriate on behalf of the Chair;
- c) deputise in the absence of the Chair in carrying out the responsibilities of the Chair.

### **5.3. Civic Role**

5.3.1. The Chair, supported by the Vice-Chair, and other Councillors (as appropriate), will perform civic duties on behalf of the Council, which shall include:

- a) raising and maintaining the profile of the Council's area, the Council and its communities;
- b) promoting the aims and values of the Council in an apolitical manner;
- c) promoting such civic and ceremonial functions as the Council, or the Chair, may determine following consultations, where appropriate; and
- d) representing the Council at civic and ceremonial functions of other local authorities or involving other appropriate bodies.

### **5.4. Council Role**

5.4.1. The Chair shall have the following responsibilities:

- a) upholding and promoting the purposes of this Constitution and interpreting it, taking into account appropriate advice when necessary
- b) presiding over meetings of the Full Council to ensure that business is carried out transparently, efficiently and effectively whilst preserving the rights of Councillors and the interests of members of the public
- c) ensuring that at Council meetings matters of concern to local communities can be debated through the appropriate mechanisms
- d) ensuring that Councillors who are not on the Cabinet or who do not hold the Chairmanship of a main Committee are able to hold those office holders to account
- e) promoting public involvement in the Council's affairs and acting as a contact between members of the public and organisations and the Council



- f) undertaking such other roles as may be placed upon the Chair from time to time by the Council

## Article 6 – Overview and Scrutiny

### 6.1. Overview and Scrutiny

6.1.1. As outlined in the Summary and Explanation at Part 1 of this Constitution, the Council has established arrangements for the Overview and Scrutiny function in line with six principles, those being that the Overview and Scrutiny Committees shall:

- a) contribute to sound decision making in a timely way by holding decision makers to account as a ‘critical friend’;
- b) be a Councillor led and owned function that seeks to continuously improve through self-reflection and development;
- c) enable the voice and concerns of the public to be heard and reflected in the Council’s decision making process;
- d) engages in decision making and policy development at an appropriate time to be able to have influence;
- e) contribute to and reflect the vision and priorities of the Council; and
- f) be agile and be able to respond to changing and emerging priorities at the right time with flexible working methods.

### 6.2. Responsibilities of the Overview and Scrutiny Committees

The Overview and Scrutiny Committees have the functions set out at Part 3 of this Constitution.

### 6.3. Current Overview and Scrutiny Committees

6.3.1. There shall be four Overview and Scrutiny bodies:

- a) **Overview and Scrutiny Board** which shall comprise of 15 Councillors meeting approximately 10 times each year. Meetings shall take account of the calendar of meetings for the Cabinet, to enable the Board to make recommendations to the Cabinet;
- b) **Health and Adult Social Care Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting approximately six times each year;
- c) **Children’s Services Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting approximately six times each year; and
- d) **Place Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting approximately six times each year.

### 6.4. Membership

6.4.1. No member of the Cabinet may be a member of the Overview and Scrutiny Committees or any group established by the Committees.

- 6.4.2. The Board and Committees are to be politically balanced in accordance with the requirements of the Local Government and Housing Act 1989.
- 6.4.3. Where the Chairs of the other Overview and Scrutiny Committees are not members of the Overview and Scrutiny Board they will be invited to attend meetings of the Board in order to report on activity within their Committees.

## **6.5. Substitutes**

If a member is unable to attend a meeting their Group may arrange for a substitute to attend in their place in accordance with Part 4 of this Constitution.

## **6.6. Members of the Public**

- 6.6.1. Members of the public can be invited to attend and contribute to meetings as required to provide insight to a matter under discussion. This may include but is not limited to subject experts with relevant specialist knowledge or expertise, representatives of stakeholder groups or service users. Members of the public will not have voting rights.

## **6.7. Childrens Services Overview and Scrutiny Committee**

- 6.7.1. As the functions and duties of the Children's Services Overview and Scrutiny Committee include making decisions in relation to the Council's education responsibilities, the Committee must include two church and two parent governor representatives as voting members in addition to the Councillors. Parent governor membership shall extend to a maximum period of four years and no less than two years. These co-opted education representatives are entitled to vote on any item relating to education.
- 6.7.2. The Children's Services Overview and Scrutiny Committee may also co-opt one representative from the Academy Trusts within the local authority area, to attend meetings and vote on matters relating to education.

## **6.8. Conduct of Overview and Scrutiny Committee meetings**

Conduct of the proceedings at Overview and Scrutiny Committee meetings shall be in accordance with the Procedure Rules as set out in Part 4C of this Constitution.

## **6.9. Commissioned Work**

- 6.9.1. The Overview and Scrutiny Committees may commission work to be undertaken in the following ways as it considers necessary after taking into account the availability of resources, the work programme and the matter under review:
- a) **Working Groups** – a small group of Councillors and Officers gathered to consider a specific issue and report back to a full committee, or make recommendations to Cabinet or Council within a limited timescale. Working Groups usually meet once or twice, and are often non-public;

- b) **Sub-Committees** – a group of Councillors delegated a specific aspect of the main Committee’s work for ongoing, in-depth monitoring. May be time limited or be required as a long-standing committee. Sub-Committees are often well suited to considering performance based matters that require scrutiny oversight. Sub-Committees usually meet in public;
- c) **Task and finish groups** – a small group of Councillors tasked with investigating a particular issue and making recommendations on this issue, with the aim of influencing wider Council policy. The area of investigation will be carefully scoped and will culminate in a final report, usually with recommendations to Cabinet or Council. Task and finish groups may work over the course of a number of months and take account of a wide variety of evidence, which can be resource intensive. For this reason, the number of these groups must be carefully prioritised by scrutiny members to ensure the work can progress at an appropriate pace for the final outcome to have influence;
- d) **Inquiry Days** – with a similar purpose to task and finish groups, inquiry days seek to understand and make recommendations on an issue by talking to a wide range of stakeholders and considering evidence relating to that issue, within one or two days. Inquiry days have similarities to the work of Government Select Committees. Inquiry days are highly resource intensive but can lead to swift, meaningful outcomes and recommendations that can make a difference to Council policy; and
- e) **Rapporteurs or scrutiny member champions** - individual Councillors or pairs of Councillors tasked with investigating or maintaining oversight of a particular issue and reporting back to the main committee on its findings. A main committee can use these reports to facilitate its work prioritisation. Rapporteurs will undertake informal work to understand an issue – such as discussions with Officers and Portfolio Holders, research and data analysis. Rapporteur work enables scrutiny members to collectively stay informed of a wide range of Council activity. In this way the workload is spread between Councillors. This approach to the provision of information to scrutiny members also avoids valuable committee time being taken up with briefings in favour of more outcome-based scrutiny taking place at committee.

## **Article 7 - The Leader of the Council and the Cabinet**

This Article explains the role and appointment of the Leader of the Council and the role and appointment of the Cabinet. The Leader of the Council and the Cabinet members are often together referred to as 'Executive Members'.

### **7.1. The Leader**

#### **7.1.1. Appointment of Leader**

The Council will elect a Councillor to be the Leader of the Council at the annual meeting following a full election of Councillors, unless for any reason the Leader's time in office comes to an end within four years from the date they were appointed, in which case a replacement will be elected at an Extraordinary Council Meeting.

#### **7.1.2. Roles and Functions**

The Leader of the Council will:

- a) be a member of the Cabinet;
- b) appoint up to 9 other Councillors to form the Cabinet. The Leader has the right to remove any member from the Cabinet;
- c) appoint a Deputy Leader from among the Cabinet members and make any other executive appointments required by law;
- d) allocate Portfolio responsibilities and functions to each of the Councillors appointed to the Cabinet, defining the scope, deputising arrangements and scheme of delegation in respect of each Portfolio. One of the Portfolio Holders must be designated with responsibility for Children's Services;
- e) notify the Chief Executive and Monitoring Officer of the allocation of Cabinet members' responsibilities for functions such information to be set out in The Cabinet Portfolio Scheme;
- f) chair meetings of the Cabinet;
- g) lead in the preparation, co-ordination and presentation of the Cabinet's policies and activities and liaise with the Chief Executive on the carrying out of the Council's policies; and
- h) retain the power to make all executive decisions on behalf of the Council pursuant to the relevant legislation

#### **7.1.3. Ending the Leader's term in Office**

The Leader of the Council will hold office as the Leader of the Council from the day of their appointment until one of the following:

- a) the date of the Council's Annual Meeting following a full election of Councillors;
- b) they resign from office;
- c) they are suspended or disqualified from being a Councillor;
- d) they are removed from office by resolution of the Full Council; or

- e) for any other reason they cease to be a Councillor.

#### **7.1.4. Ending the Deputy Leader's and Cabinet Members' term in Office**

The Deputy Leader and each Cabinet member will remain as members of the Cabinet until one of the following:

- a) the date of the Council's Annual Meeting following a full election of Councillors;
- b) they are removed from office by the Leader;
- c) they resign from office;
- d) they are suspended from being a Councillor; or
- e) for any other reason they cease to be a Councillor.

#### **7.1.5. Votes of No Confidence**

The Leader shall cease to be the Leader if a resolution is passed by a majority of members present and voting to remove the leader at a meeting of the Full Council in accordance with the Procedural Rules contained within Part 4D of this Constitution. Subject to the following:

- a) should a Leader not be able to act or the office is vacant, the Deputy Leader is to act in the Leader's role;
- b) if the Deputy Leader is unable to act or the office is vacant then the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to take the Leader's role, until a decision is made by the Council to appoint a new Leader; and
- c) in the event of there being no Leader, Deputy or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive.

## **7.2. The Cabinet**

The Cabinet is a group of Councillors who work with Council Officers to run the Council and take most decisions except decisions about major policy issues or setting the annual budget, which only the Full Council can do - or decisions on whether to give planning permissions or licences or any other matters which are reserved to Full Council or other Committees.

### **7.2.1. Membership**

The Cabinet consists of the Leader of the Council and up to 9 other Councillors appointed by the Leader, not being the Chair or Vice-Chair of the Council.

### **7.2.2. Roles of Cabinet**

The Cabinet will carry out all functions of the Council which are not by law or, under the Functions Scheme, the responsibility of another part of the Council.

### **7.2.3. Functions of individual Members of the Cabinet**

The functions of the individual members of the Cabinet are set out in the Cabinet Portfolio Scheme which is contained within Part 3 of this Constitution.

#### **7.2.4. Meetings of the Cabinet**

Meetings of the Cabinet must follow the Procedure Rules contained within Part 4D of this Constitution.



## Article 8 - Other Committees

### 8.1. Other Committees

8.1.1. The Council will appoint the following other Committees to take such decisions which are not reserved to Full Council; the responsibility of the Leader / Cabinet or within the remit of Overview and Scrutiny:

- a) **Planning Committee** – consisting of 15 Councillors;
- b) **Licensing Committee** – consisting of 15 Councillors;
- c) **Standards Committee** – consisting of 7 Councillors;
- d) **Appeals Committee** – consisting of 7 Councillors;
- e) **Audit and Governance Committee** – consisting of 9 Councillors; and
- f) **Investigation and Disciplinary Committee** – consisting of 7 Councillors (including the Leader of the Council and another member of the Cabinet).

8.1.2. The Council may appoint other Committees, Sub-Committees and Special Committees with delegated powers to act under specific terms of reference which must be set out in the minutes of the meetings.

8.1.3. The Council will establish a Health and Wellbeing Board in accordance with the legislative requirements and statutory guidance, and the terms of reference for this Board are published on the website.

### 8.2. Powers of Committees

8.2.1. The Committees shall have the functions set out within Part 3 of this Constitution.

8.2.2. A Committee may, at any time, decline to exercise a delegated power. The matter must then be considered and determined by the Full Council as appropriate.

### 8.3. Conduct of Committee Meetings

Committee meetings will be conducted in accordance with the law and the Procedure Rules set out within Part 4D of this Constitution.

## **Article 9 – Joint Arrangements**

### **9.1. Joint Arrangements**

- 9.1.1. The Council may enter into joint arrangements with one or more other councils to exercise functions which are not executive functions. The arrangements may involve the appointment of a joint committee with these other councils and appointments to it should reflect the political composition of the Council as a whole.
- 9.1.2. The Leader may enter into joint arrangements with one or more other councils to exercise functions which are Executive Functions or to advise the Leader. Such arrangements may involve the appointment of a joint committee with these other councils. Such a joint committee will be a Committee exercising Executive Functions and appointments to it will be made by the Leader and will be members of the Cabinet. Those members need not reflect the political composition of the Council.
- 9.1.3. Details of any joint arrangements including any delegations to joint committees is set out in the Council's Scheme of Delegations within Part 3 of this Constitution.

### **9.2. Access to Information**

The Access to Information Rules within Part 4A of this Constitution apply to joint arrangements.

### **9.3. Joint Arrangements**

The Council currently has a number of joint arrangements in place, including the following:

- a) Stour Valley and Poole Partnership;
- b) Dorset Public Health Board; and
- c) Aspire Adoption Joint Board.

## **Article 10 - Arrangements for Promoting Good Standards of Behaviour by Councillors**

### **10.1. Adoption of a Code of Conduct for Councillors**

The Council has adopted the Code of Conduct for Councillors set out within Part 6 of this Constitution.

### **10.2. Application of the Code of Conduct**

The Code of Conduct will apply to all Councillors when they are acting as a Councillor or hold themselves out as doing so.

### **10.3. Standards Committee**

The Standards Committee is responsible for monitoring and overseeing the effectiveness of the arrangements for dealing with complaints and the Code of Conduct. It is also in general terms responsible for oversight of the ethical conduct of Councillors and for working with other Committees such as Audit and Governance Committee to ensure the ethical governance framework of the Council is effective and fit for purpose.

### **10.4. Arrangements for dealing with complaints against Councillors**

The Council's adopted arrangements for dealing with complaints against Councillors are set out within Part 6 of this Constitution.

## **Article 11 - Officers**

### **11.1. Management Structure**

#### **11.1.1. General**

The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

#### **11.1.2. Chief Officers**

The Council will engage persons for the following posts, who will be designated Chief Officers:

- a) Chief Executive and Head of Paid Service; and
- b) Directors who report directly to the Chief Executive within the line management structure.

#### **11.1.3. Selection and recruitment of Chief Officers**

The process of selection and recruitment of the above Chief Officers shall be undertaken in accordance with provisions set out in the Employment and Procedure Rules at Part 4E of this Constitution.

#### **11.1.4. Other designated Officers**

The Council is required by law to designate an Officer to each of the following statutory roles, further details of which can be found in the Financial Regulations at Part 5 of this Constitution:

- a) Head of Paid Service;
- b) Section 151 Officer; and
- c) Monitoring Officer.

#### **11.1.5. Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. That document shall form part of the Constitution.

### **11.2. Roles and Functions of the Head of Paid Service**

#### **11.2.1. Discharge of functions by the Council.**

The Head of Paid Service will, where they consider it appropriate, report to Full 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, the organisation of Officers and to such extent as relevant, the appointment and proper management of Officers.

#### **11.2.2. Restrictions on functions.**

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

### 11.3. Functions of the Monitoring Officer

- a) **maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is made available to Councillors, Officers and the public;
- b) **ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council, or Cabinet in relation to an executive 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;
- c) **standards.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct;
- d) **proper Officer for access to information.** The Monitoring Officer will ensure that Councillor decisions (including decisions by Committee and individual Cabinet member decisions), together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as required by legislation;
- e) **contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice;
- f) **providing advice.** The Monitoring Officer will provide advice to the Council on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues and will support and advise Councillors and Officers in their respective roles; and
- g) **restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### 11.4. Functions of the Chief Finance Officer (Section 151 Officer)

- a) **ensuring lawfulness and financial prudence of decision making.** After consulting with the Monitoring Officer, the Section 151 Officer will report to the Full Council, to Cabinet in relation to executive functions and to 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) **administration of financial affairs.** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- c) **contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice;
- d) **providing advice.** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity (and budget and policy framework issues) to all

Councillors and will support and advise Councillors and Officers in their respective roles; and

- e) **give financial information.** The Section 151 Officer will provide financial information to the media, the public and the community.

### **11.5. Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **11.6. Conduct**

Officers will comply with the Protocol for Councillor/Officer Relations and the relevant Employee Code of Conduct.

### **11.7. Employment**

The recruitment, selection and dismissal of posts below Chief Officer level will be made in accordance with arrangements prescribed by the Head of Paid Service to the extent not covered by the Employment Procedure Rules at Part 4E of this Constitution.

## **Article 12 - Decision Making**

### **12.1. Principles of Decision Making**

When the Council makes a decision it will:

- a) be clear about what the Council wants to happen and how it will be achieved;
- b) ensure that the decision and the decision-making process are lawful;
- c) consider the Public Sector Equality Duty and its obligations under the Human Rights Act;
- d) consult properly and take professional advice from Officers;
- e) have due regard to appropriate national, strategic, local policy and guidance;
- f) ensure the action is proportionate to what the Council wants to happen;
- g) ensure the decisions are not unreasonably delayed;
- h) explain what options were considered and give the reasons for the decision; and
- i) make the decision public unless there are good reasons for it not to be.

### **12.2. Responsibility for Decision Making**

The Council will prepare and keep up to date a Functions Scheme. The Functions Scheme will show what types of decisions can be made and who or which part of the Council can make them.

### **12.3. Types of Decision**

#### **12.3.1. Decisions Reserved to the Full Council**

Decisions reserved to Full Council in the Functions Scheme will be made by Full Council only. Other non-executive decisions are delegated to Council Committees, Sub-Committees and to Officers as set out in the Functions Scheme.

#### **12.3.2. Key Decisions**

A Key Decision, which must be included in the Cabinet Forward Plan, is a Leader or Cabinet decision which is likely to meet one or more of the following criteria:

- a) it will result in the Council on its own or in partnership with other organisations spending or saving £500,000 or more, with the exception of operational expenditure or savings identified within the agreed Service Plan and Budget; and/or
- b) it is likely to have a significant impact or effect on two or more electoral wards.

12.3.3. A Key Decision must be made in accordance with the Procedure Rules set out at Part 4B of this Constitution.

#### **12.3.4. Individual Cabinet Member Decisions**

Individual Cabinet member Decisions will be made in accordance with the Procedures set out in this Constitution and the Functions Scheme – Delegation to Cabinet members, the Leader’s Scheme of Delegation and the Financial Regulations.

**12.3.5. Major Operational Decisions taken by Officers**

A Major Operational Decision is an Officer decision which is not a Key Decision and which is likely to meet one of the following criteria:

- a) it will result in the Council incurring expenditure, including the loss of income – in excess of £100,000, with the exception of operational expenditure identified within the agreed Service Plan and Service Budget;
- b) it is a decision which has been specifically delegated to Officers – for example to conclude an agreement or contract within the outline terms agreed by the Cabinet; and/or
- c) it is a decision which is controversial and/or politically sensitive in nature or is, in the opinion of the Director, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the Council.

**12.3.6. Day to day Operational Decisions taken by Officers**

A day to day operational decision is an Officer decision which is not a Key or Major Operational Decision and meets all of the following criteria:

- a) it is within an agreed Service Plan and Service Budget;
- b) it is not in conflict with the Budget and Policy Framework or other approved policies of the Council; and
- c) it does not raise new issues of policy.



## **Article 13 - Legal Matters**

### **13.1. Financial Management**

The management of the Council's financial affairs will comply with the Financial Regulations contained within Part 5 of this Constitution.

### **13.2. Contracts**

Every contract made by the Council will comply with the Financial Regulations.

### **13.3. Legal Proceedings**

- 13.3.1. The Monitoring Officer can start, defend, settle or take part in any legal proceedings where such action is necessary to act on decisions of the Council and where they consider that such action is necessary to protect the Council's interests and comply with its statutory duties.
- 13.3.2. The Monitoring Officer can designate nominated Officers to carry out this function on their behalf. Details of the powers that the Monitoring Officer has delegated are contained in the Scheme of Delegation to Officers.

### **13.4. Authentication of Documents**

- 13.4.1. Any document necessary for any legal procedure or proceedings will be signed by the Monitoring Officer or by some other person authorised by them, unless any law otherwise authorises or requires another person's signature or the Council has given authority to some other person to sign on its behalf.
- 13.4.2. Any contract with a value over £30,000 entered into on behalf of the Council shall be made in writing.
- 13.4.3. Such contracts must either be signed by the Monitoring Officer or by some other person authorised by them, or one of the persons referred to in Article 13.5 below or made under the Common Seal of the Council certified by at least one of the persons referred to in Article 13.5 below.

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

- 13.5.1. The Common Seal of the Council will be kept in a secure place in the custody of the Monitoring Officer.
- 13.5.2. A decision of the Council, or of any part of it to which authority has been delegated, will be authority for sealing any document necessary to give effect to the decision.
- 13.5.3. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or otherwise completed as required by the Procedure Rules. The affixing of the Common Seal may be certified by either the Chief Executive, the Monitoring Officer, the Deputy Monitoring Officer, a Director, the Chair, or the Vice-Chair.

## **Article 14 - Review, Revision, Suspension, Interpretation and Publication of the Constitution**

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

- 14.1.1. The Monitoring Officer will monitor and review the operation of the Constitution.
- 14.1.2. To the extent that it is not covered by a delegation to an Officer or other committee or as otherwise provided for in this Article (or unless Full Council otherwise expressly resolves), any proposed change to the Constitution before it is considered by Full Council shall have had an opportunity to be considered by the Audit and Governance Committee and/or a Sub-Committee/Working Group appointed by it provided that nothing in this provision shall prevent the Monitoring Officer taking a proposed change of the Constitution to Full Council even if they have delegated power to determine such a matter.
- 14.1.3. Save to the extent as provided for in this Article changes to the Constitution shall be determined by Full Council to the extent as provided for in Article 4 of this Constitution.

### **14.2. Changes to the Constitution by the Monitoring Officer without referral**

The Monitoring Officer shall have power without referral elsewhere to make amendments to the Constitution where they consider this is necessary and/or expedient to reflect legislative change, secure consistency, address any legal ambiguity, and/or address any uncertainty in interpretation. The Monitoring Officer shall notify all Councillors of any such changes.

### **14.3. Suspension of the Constitution**

- 14.3.1. The Articles of this Constitution may not be suspended. However, the Procedure Rules set out in this Constitution may be suspended by the Full Council, Cabinet or relevant Committee to the extent permitted within those Rules and the law.
- 14.3.2. A motion to suspend any rules cannot be moved without notice, unless at least one half of the whole number of Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking into account the purposes of the Constitution set out in Article 1 of this Constitution.

### **14.4. Interpretation**

The ruling of the Chair of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution and shall be made taking the advice of the Monitoring Officer or such other Officer as designated.

## **14.5. Publication**

The Monitoring Officer will:

- a) give each Councillor access to an electronic copy of this Constitution;
- b) ensure that a copy of this Constitution is made available on the Council's website;
- c) ensure that copies are available for inspection at the Council's main office, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee; and
- d) provide to any Councillor, upon request, a copy of the Constitution.

14.5.1.

PART 3  
RESPONSIBILITY FOR FUNCTIONS  
AND OFFICER SCHEME OF  
DELEGATION

See Part 5 for Financial Delegations

## PART 3A

# RESPONSIBILITY FOR FUNCTIONS

## **A. Introduction – Responsibility for Functions**

This Part A explains the types of Council functions and which part of the Council can make decisions relating to those functions. Some functions can be delegated, and this Part A includes details of the functions which have been delegated and the Councillors or Officers they have been delegated to.

### **1. Responsibility of Full Council**

The functions listed below are reserved to Full Council and can only be discharged by Full Council:

- 1.1. Approving the Key Policy Framework which shall mean the Corporate Plan and any policy or strategy required by law or by the Council to be approved by Full Council including the following:
  - 1.1.1. Children and Young People's Plan;
  - 1.1.2. Crime and Disorder Reduction Strategy;
  - 1.1.3. Development Plan Documents;
  - 1.1.4. Licensing Authority Policy Statements;
  - 1.1.5. Local Transport Plan;
  - 1.1.6. Youth Justice Plan; and
  - 1.1.7. Housing Strategy
  - 1.1.8. Corporate Plan
  - 1.1.9. Annual Senior Officer Pay Policy Statement.
- 1.2. The approval or adoption of the Budgetary Framework and for the purposes of this Constitution, "Budgetary Framework" shall, unless the context expressly requires otherwise, mean:
  - 1.2.1. the Revenue Budget;
  - 1.2.2. the Capital Programme;
  - 1.2.3. the Capital Strategy;
  - 1.2.4. the Medium Term Financial Plan; and
  - 1.2.5. to the extent that it is not covered by 1.2.1 to 1.2.4 above:
    - a) any plan or strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue provision; and
    - b) any other financial requirements that legislation expressly requires to be determined by Full Council.
- 1.3. The approval of any of the above documents in the event they, or part of them, need to be submitted to the Secretary of State or any Government Minister for final approval, including where they are to be submitted in draft form.

- 1.4. The approval of changes to any plan or strategy referred to above, unless one of the following applies:
  - 1.4.1. that change is required by the Secretary of State or any Government Minister where the plan or strategy has been submitted to them for approval; or
  - 1.4.2. Full Council specifically delegated authority in relation to these functions when it approved or adopted the plan or strategy.
- 1.5. Adopting and changing the Constitution save to the extent provided for in Article 14 of Part 2 of the Constitution.
- 1.6. Appointing to such Committees of the Council as it is required to appoint by or under any statute or by virtue of the Constitution, and to:
  - 1.6.1. determine the size and allocation of seats to political groups in accordance with the political balance rules;
  - 1.6.2. receive nominations of Councillors to serve on each Committee and appoint to those Committees; or
  - 1.6.3. approve any changes to the terms of reference and scheme of delegation for those Committees (as set out in Part 3 of this Constitution).
- 1.7. Appointing and removing the following:
  - 1.7.1. Chair of the Council;
  - 1.7.2. Vice-Chair of the Council; and
  - 1.7.3. Leader of the Council in accordance with the relevant legislation.
- 1.8. Authorising appointments to any joint committees which are not solely Executive bodies.
- 1.9. Approving the allocation of seats to political groups and where appropriate appointments to the Dorset and Wiltshire Fire and Rescue Authority, Dorset Police and Crime Panel, Dorset Pensions Fund Committee, Lower Central Gardens Trust Board and Stour Valley and Poole Partnership Joint Committee.
- 1.10. Approving a Members' Allowances Scheme.
- 1.11. Approving the Annual Senior Officer Pay Policy Statement.
- 1.12. Confirming the appointment of the Head of Paid Service, the Monitoring Officer, the Section 151 Officer and other Statutory Chief Officers and the dismissal of the Head of Paid Service, Monitoring Officer and Section 151 Officer in accordance with the Employment Procedure Rules and the law.
- 1.13. Making an Order to give effect to recommendations made in a Community Governance Review.
- 1.14. Changing the name of the Council.



- 1.15. Conferring honorary titles.
- 1.16. Making, amending, revoking, re-enacting and adopting byelaws and promoting and opposing the making of local legislation and personal bills in Parliament.
- 1.17. Any other function which, by law, must be reserved to the Full Council.

**Full Council has delegated specific non-executive functions to the following bodies listed below.**

## **2. Planning Committee**

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the Planning Committee.
- 2.2. The Planning Committee has responsibility to determine the following:
  - 2.2.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;
  - 2.2.2. applications submitted by or on behalf of a current Officer:
    - a) working within the planning section; or
    - b) at Tier 3 level and above; or
    - c) direct family (spouse or civil partner) of Officers identified under 2.2.2 a) and b); or
    - d) for any property or land in which they have a financial interest;
  - 2.2.3. applications referred to the Committee by the relevant senior planning officer for one or more of the following reasons:
    - a) applications where there are material planning issues that have not previously been considered within the Council's area;
    - b) applications where a national or local planning policy is being tested for the first time within the Council's area;
    - c) applications which have a significant impact on a wide number of businesses and / or people;
    - d) applications which have a finely balanced Officer recommendation;
    - e) applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils; and/or

- f) applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest;
- 2.2.4. applications where the Council is the applicant or landowner for major development proposals as defined in the Development Management Procedures Order;
  - 2.2.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;
  - 2.2.6. applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;
  - 2.2.7. an application which a Councillor requests should be referred to the Planning Committee provided that all of the following criteria are met:
    - a) the application is potentially contentious and raises material planning issues that affect their ward or would affect the wider public interest;
    - b) the Councillor has submitted the referral to planning committee request in accordance with the local planning authority's agreed call-in protocol (as set out at paragraph 2.3 to this Part 3A);
    - c) the Application is not one of the following:
      - i. Permission in Principle (PiPs)
      - ii. Lawful Development Certificates (LDC) (existing or proposed)
      - iii. Prior Approvals and Prior Notifications
      - iv. non-material amendments
      - v. applications other than "major", "minor" and "householder"; and
  - 2.2.8. applications where there have been 20 or more representations received within the initial or any subsequent notification period, based on material planning issues, from separate addresses that are contrary to the recommendation of the planning officer. The Head of Planning has the authority to make the decision as to whether the contrary representations are based on material planning issues.
  - 2.2.9. With reference to Councillor call in powers at 2.2.7 above, a Councillor may make a request that an application be considered by Planning Committee conditional upon a recommendation to grant or refuse, or may make an unconditional request. A Councillor may also withdraw a request at any time up to seven calendar days before publication of the relevant Committee agenda. Any request should be made in writing on the form provided for the purpose.

2.3. The call-in protocol referred to at 2.2.7 above is as follows:

- 2.3.1. a formal referral request must be submitted on the Council Planning Committee referral form;
- 2.3.2. all parts of the planning committee referral request form must be completed for the request to be considered as valid and compliant with the provisions set out in paragraph 2.2.7 of Part 3A of the Constitution;
- 2.3.3. the form must set out the material planning reasons for the referral that warrant the application being considered by Planning Committee;
- 2.3.4. the ward Councillor must have first discussed the planning application with the planning case officer before submitting a Planning Committee referral form. This discussion should take place within the initial planning application notification period. In these discussions, and prior to submitting the form, the ward Councillor must advise the officer whether they are considering submitting a Planning Committee referral request form so the officer can update the ward Councillor on progress before a recommendation is made.
- 2.3.5. to ensure resilience that the planning committee referral requests are formally received by the case officers, request forms should be submitted by email to both the case officer and the relevant office inbox as follows:
  - a) [planning.bournemouth@bcpcouncil.gov.uk](mailto:planning.bournemouth@bcpcouncil.gov.uk)
  - b) [planning.christchurch@bcpcouncil.gov.uk](mailto:planning.christchurch@bcpcouncil.gov.uk)
  - c) [planning.poole@bcpcouncil.gov.uk](mailto:planning.poole@bcpcouncil.gov.uk)
- 2.3.6. Once the notification period has expired and the officer has not had any contact from a ward Councillor in respect of a potential planning committee referral, Councillors are to be aware that officers are able to make decisions on planning applications under delegated powers in accordance with the Council scheme of delegation.

### **3. Licensing Committee**

- 3.1. All matters relating to Licensing functions as set out in the relevant legislation are delegated to Officers pursuant to the Chief Executive's Scheme of Delegation to determine other than those matters set out below which shall be the responsibility of the Licensing Committee.
- 3.2. The Licensing Committee has responsibility for the following:
  - 3.2.1. making recommendations to Full Council in relation to the Council's policies under the Licensing Act 2003, the Gambling Act 2005, the Police Reform and Social Responsibility Act 2011, and the Council's Regulations on the Control of Sex Establishments made under the

Local Government (Miscellaneous Provisions) Act 1982 and any other relevant legislation;

- 3.2.2. making decisions in connection with statutory commercial public safety licensing of a type that may require quasi-judicial process or intervention – for example, alcohol, entertainment, gambling, sexual entertainment venues, street trading, charitable collections and public carriages;
- 3.2.3. establishing Licensing Sub-Committees, subject to statutory provisions, and to determine the number of such Committees, after first consulting with the Monitoring Officer or the Monitoring Officer's nominated representative to ensure Councillors have suitable expertise and to avoid political imbalance;
- 3.2.4. delegating appropriate matters to Licensing Sub-Committees for a decision. Any such delegation is without prejudice to the Licensing Committee's ability to consider and determine those matters notwithstanding the delegation, these matters may include the following:
  - a) decisions on applications made under the Licensing Act 2003 for new Premises Licences and/or Club Premises Certificates where representations have been made and not withdrawn;
  - b) decisions on applications made under the Licensing Act 2003 to vary Premises Licences and/ or Club Premises Certificates where representations have been made and not withdrawn;
  - c) decisions on applications made by the Police under the Licensing Act 2003 for expedited reviews of Premises Licences and/or Club Premises Certificates;
  - d) decisions on applications to review Premises Licences and/or Club Premises Certificates made under the Licensing Act 2003, including those licences which have been the subject of an earlier expedited review;
  - e) decisions on applications made under the Licensing Act 2003 for Personal Licences where representations have been made and not withdrawn, or where the applicant has unspent convictions;
  - f) decisions on applications made under the Licensing Act 2003 for a Provisional Statement where representations have been made and not withdrawn;
  - g) decisions on applications for a Temporary Event Notice made under the Licensing Act 2003 where Police or Environmental Health representations have been made;
  - h) decisions on Public Carriage licensing matters which fall outside of existing policies;

- i) decisions on Public Carriage disciplinary matters;
- j) decisions on applications made under the Gambling Act 2005 where representations have been received and not withdrawn for the following:
  - i. applications for new Premises Licences;
  - ii. applications for Variation of a Premises Licence;
  - iii. applications for a Provisional Statement; and
  - iv. applications for other permits;
- k) decisions on applications for transfer of a Premises Licence made under the Gambling Act 2005 where representations have been received from the Gambling Commission;
- l) decisions on applications made under the Gambling Act 2005 for:
  - i. cancellation of Club Gaming/Club Machine Permits;
  - ii. cancellation of Licensed Premises Gaming Machine Permits; and
  - iii. a decision to give a Counter Notice to a Temporary Use Notice;
- m) making decisions in matters under the Licensing Act 2003 where there are unresolved Police representations relating to applications:
  - i. to vary the Designated Personal Licence Holder;
  - ii. for the transfer of a Premises Licence; and
  - iii. for Interim Authorities;
- n) making decisions on all applications relating to premises or land operated by the Council where relevant representations are received;
- o) making decisions on applications to review Premises Licences made under the Gambling Act 2005;
- p) making decisions on applications relating to Street Trading which fall outside of existing policies;
- q) making decisions on Public Carriage disciplinary matters that may result in the revocation or suspension of a Taxi Operators Licence;
- r) making decisions on applications for new Sex Establishment and Sexual Entertainment Licences;

- s) making decisions on applications for renewals of Sex Establishment and Sexual Entertainment Licences where representations have been received and not withdrawn;
- t) making any decisions required to be made within the following legislative frameworks which have not been delegated by the Committee to Officers:
  - i. Caravan Site Act 1968 and Mobile Home Act 2013 and related legislation;
  - ii. Charities Act 1992 and related legislation;
  - iii. Street Trading Permits and Table and Chair permissions and related permissions; and
  - iv. Animal Welfare Licensing – where there are objections to licences;
- u) approving the level of fees charged by the Council; and
- v) making decisions on the tariffs charged by the Public Carriage Trade.

## **4. Overview and Scrutiny Function**

### **Overview and Scrutiny Board**

- 4.1. For the avoidance of doubt, any responsibility relating to an Overview and Scrutiny Committee in 4.2 below may also relate to the Overview and Scrutiny Board.
- 4.2. The Overview and Scrutiny Board has responsibility for:
  - 4.2.1. discharging the statutory duties for which the Overview and Scrutiny function is responsible, other than those that relate to Flood Risk Management, Health, Adult Social Care and Children's Services;
  - 4.2.2. overseeing the Council's overall Overview and Scrutiny function including the preparation, implementation, monitoring and review of a work programme for Overview and Scrutiny;
  - 4.2.3. keeping the Overview and Scrutiny function under review, suggesting changes as appropriate to ensure that it remains fit for purpose;
  - 4.2.4. considering decisions that have been called-in pursuant to the Procedures set out in this Constitution for further scrutiny;
  - 4.2.5. reporting annually to Full Council on the output of the Overview and Scrutiny function providing an assessment of the value added by the work undertaken, taking into account the agreed principles on which the function is based;

- 4.2.6. maintaining oversight and establishing priorities for the training needs of the whole Overview and Scrutiny function;
- 4.2.7. establishing such commissioned work as appropriate after taking into account the availability of resources, the work programme and the matter under review;
- 4.2.8. scrutinising decisions of the Cabinet, offering advice or making recommendations on the matter;
- 4.2.9. referring to Full Council, the Cabinet or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Overview and Scrutiny Board/Committee determines should be brought to the attention of the Council, Cabinet or the Committee or Sub-Committee;
- 4.2.10. offering any views or advice to the Cabinet in relation to any matter referred to the Overview and Scrutiny Committee for consideration by the Cabinet;
- 4.2.11. assisting the Council in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- 4.2.12. undertaking general policy reviews with a cross-service and multi-organisational approach wherever possible, and making recommendations to the Council or the Cabinet to assist in the development of future policies and strategies; and
- 4.2.13. monitoring the implementation of decisions to examine their effect and outcomes.

#### **Health and Adult Social Care Overview and Scrutiny Committee**

- 4.3. The Health and Adult Social Care Overview and Scrutiny Committee will carry out those duties as outlined in 4.2.7 to 4.2.13 above, in relation to matters regarding health, adult social care, public health, community care and any other issues relating to the delivery of health services by health service providers and NHS bodies affecting the residents of Bournemouth, Christchurch and Poole.
- 4.4. This Committee carries out all the Council's overview and scrutiny functions relating to health as required by legislation.

#### **Children's Services Overview and Scrutiny Committee**

- 4.5. The Children's Services Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2.7 to 4.2.13 above, in relation to matters which relate to the delivery of services for children in Bournemouth, Christchurch and Poole.
- 4.6. Education co-optees will be appointed to this Committee in line with legislation, as set out in this Constitution.

## **Place Overview and Scrutiny Committee**

- 4.7. The Place Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2.7 to 4.2.13 above, in relation to matters which relate to the delivery of services for strategic planning and house building, strategic transport, TCF delivery, road safety, sustainability and climate change, waste collection (household and public bins), streets (resurfacing, potholes, sweeping), litter, fly tipping, beaches, sea front, paddling pools, cleaning and maintenance, flood resilience, parks and bereavement, conservation (AONBs and SSSIs), cemeteries / crematorium, social housing, rented market, landlord liaison, homelessness / poverty, housing standards and adaptations, welfare benefits and services and Seascape in Bournemouth, Christchurch and Poole.
- 4.8. This Committee carries out all the Council's overview and scrutiny functions relating to flood risk management as required by legislation.

## **5. Audit and Governance Committee**

- 5.1. Functions of the Audit & Governance Committee are set out below. The Audit & Governance Committee cannot delegate for a decision any issues referred to it apart from any matter that is reserved to Council.

### **Statement of Purpose**

- 5.2. The Audit & Governance Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- 5.3. The purpose of our Audit & Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

### **Governance, Risk & Control**

- 5.4. To consider the arrangements for corporate governance including reviews of the Local Code of Corporate Governance and review and approval of the Annual Governance Statement (AGS).
- 5.5. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 5.6. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.



- 5.7. To consider arrangements for risk management including the approval of the Risk Management Strategy and review of the Council's corporate risk register.
- 5.8. To consider arrangements for counter-fraud and corruption, including 'whistle-blowing' including approval of the Counter Theft, Fraud & Corruption Policy and the outcomes of any investigations in relation to this policy.
- 5.9. To review the governance and assurance arrangements for significant partnerships or collaborations.

### **Internal Audit**

- 5.10. To approve the Internal Audit Charter.
- 5.11. 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.
- 5.12. To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.
- 5.13. To consider reports from the Head of Internal Audit on Internal Audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - 5.13.1. updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
  - 5.13.2. regular reports on the results of the Quality Assurance Improvement Programme (QAIP); and
  - 5.13.3. reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), considering whether the nonconformance is significant enough that it must be included in the Annual Governance Statement (AGS).
- 5.14. To consider the Head of Internal Audit's annual report, including:
  - 5.14.1. the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit; and
  - 5.14.2. the opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.
- 5.15. To consider summaries of specific internal audit reports as scheduled in the forward plan for the Committee or otherwise requested by Councillors.
- 5.16. To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be

unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

- 5.17. To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every 5 years.
- 5.18. To commission work from the Internal Audit Service (with due regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee).

### **External Audit**

- 5.19. 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 Ltd (PSAA).
- 5.20. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- 5.21. To consider all other relevant reports from the External Auditor as scheduled in the forward plan for the Committee as agreed with the External Auditor or otherwise requested by Councillors.
- 5.22. To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 5.23. To commission work from External Audit (with due regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee).
- 5.24. To liaise with the national body (currently Public Sector Audit Appointments (Ltd)) (PSAA) over the appointment of the Council's External Auditors.
- 5.25. To consider reports dealing with the management and performance of the External Audit function.
- 5.26. To consider and approve the Annual Plans of the External Auditor.

### **Financial Reporting**

- 5.27. 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 need to be brought to the attention of the Council.
- 5.28. To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

- 5.29. To report to Full Council and publish an annual report on the committee's findings, conclusions and recommendations concerning the adequacy and

effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.

- 5.30. To report to Full Council and publish an annual report on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

### **Other Functions**

- 5.31. To consider arrangements for treasury management including approving the Treasury Management Strategy and monitoring the performance of this function.
- 5.32. To maintain an overview of the Council's Constitution in respect of financial regulations, working protocols and codes of conduct and behaviour (not otherwise reserved to the Standards Committee or other committees).
- 5.33. To consider breaches, waivers and exemptions of the Financial Regulations.
- 5.34. To consider any relevant issue referred to it by the Chief Executive, Chief Finance Officer (CFO), Chief Internal Auditor (CIA), Monitoring Officer (MO) or any other Council body or Cabinet Member.
- 5.35. To consider arrangements for information governance, health and safety, fire safety, emergency planning (including business continuity).
- 5.36. To consider any issue of Council non-compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.
- 5.37. To consider gifts and hospitality registers relating to officers.

## **6. Standards Committee**

- 6.1. The Standards Committee will have responsibility for:
  - 6.1.1. monitoring the Code of Conduct and arrangements for dealing with complaints against Councillors and making recommendations to Full Council on any changes to the Code;
  - 6.1.2. promoting and maintaining the Council's responsibilities for ethical governance and high standards of conduct;
  - 6.1.3. ensuring that appropriate advice and training is provided to Councillors in respect of ethical governance and the Code of Conduct;
  - 6.1.4. supporting the Monitoring Officer in discharging their duties in relation to the conduct and behaviour of Councillors;
  - 6.1.5. promoting the observance of the ethical governance agenda within Parish and Town Councils in its area;

- 6.1.6. considering the outcome of investigations undertaken pursuant to the arrangements for dealing with allegations of a breach of the Code of Conduct;
- 6.1.7. making arrangements for suitable liaison as appropriate with the statutory Independent Persons in the course of dealing with an allegation of breach of the Code of Conduct; and
- 6.1.8. considering an Annual Report on Gifts and Hospitality Registers relating to Councillors.

## **7. Appeals Committee**

- 7.1. The Appeals Committee will have responsibility for determining:
  - 7.1.1. personnel-related appeals in respect of decisions made which result in a dismissal;
  - 7.1.2. appeals by parents and students against the Council's decision in relation to student awards;
  - 7.1.3. appeals by parents against the Council's decision on boarding education matters and other pupil benefits;
  - 7.1.4. appeals by parents against the Council's decision in relation to the provision of transport in cases of need, special circumstance or safety;
  - 7.1.5. appeals against the Council's decision on the provision of transport to denominational schools and colleges; and
  - 7.1.6. appeals relating to disciplinary action against, and in respect of, the relevant Statutory Officers.

## **8. Investigation and Disciplinary Committees**

### **Investigation and Disciplinary Committee (IDC)**

- 8.1. The Investigation and Disciplinary Committee will have responsibility for disciplinary and dismissal matters which relate to the relevant statutory officers. The relevant officers being the Head of Paid Service; Chief Finance Officer and Monitoring Officer.
- 8.2. The IDC shall undertake the responsibilities required pursuant to the relevant 2015 Regulations agreed Guidance and Model Procedure issued by the relevant national JNC or other relevant body that may exist in future.
- 8.3. The IDC is to be a Committee consisting of six councillors and must include the Leader of the Council and another member of the Cabinet.
- 8.4. In this case of a complaint against:
  - 8.4.1. a relevant Officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to the Monitoring Officer or Chief Finance Officer;

- 8.4.2. the Head of Paid Service, the decision to refer the matter to the IDC will be delegated to the Head of Paid Service; and
- 8.4.3. the Monitoring Officer or the Chief Finance Officer, the decision to be made in consultation in every case with the Head of Human Resources and Organisational Development.
- 8.5. The IDC will have delegated responsibility for the suspension of the relevant Officers. In the event of the need for urgency, this function is delegated to the Head of Paid Service (in the case of the Monitoring Officer or Chief Finance Officer) or the Monitoring Officer (in the case of the Head of Paid Service) in consultation with the Chair of the IDC.
- 8.6. The relevant officers will be given the same right to be accompanied at any disciplinary hearing as all Council employees. Additionally, this will include the right to be accompanied by a legal representative at their own cost.

### **Independent Panel**

- 8.7. The three Independent Persons appointed by the Council pursuant to the Localism Act requirements shall act as the Independent Panel in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015).

## 10. Leader and Cabinet – Executive Functions

### Discharge of Executive Functions

10.1. All executive authority flows through the Leader who retains the authority to make any executive decisions and subject to this may delegate decision-making to:

- 10.1.1. the Cabinet;
- 10.1.2. a member of the Cabinet;
- 10.1.3. a Committee of the Cabinet;
- 10.1.4. an Officer;
- 10.1.5. another Council; or
- 10.1.6. another organisation under joint arrangements.

### Local Choice Executive Functions

10.2. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 identifies functions which may be the responsibility of an authority's executive. The schedule below identifies these functions and indicates whether the function is an executive or non-executive function.

1.	Any function under a local Act other than a function specified or referred to in <a href="#">regulation 2</a> or <a href="#">Schedule 1</a> of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Executive
2.	The determination of an appeal against any decision made by or on behalf of the Council.	Non-executive
3.	The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Non-Executive
4.	The making of arrangements pursuant to <a href="#">sections 94(1), (1A) and (4)</a> of the <a href="#">School Standards and Framework Act 1998</a> (admissions appeals)	Non-Executive
5.	The making of arrangements pursuant to <a href="#">section 95(2)</a> of the <a href="#">School Standards and Framework Act 1998</a> (children to whom <a href="#">section 87</a> applies: appeals by governing bodies)	Non-Executive
6.	Any function relating to contaminated land	Non-executive

7.	The discharge of any function relating to the control of pollution or the management of air quality	Non-executive
8.	The service of an abatement notice in respect of a statutory nuisance	Non-executive
9.	The passing of a resolution that <a href="#">Schedule 2</a> to the <a href="#">Noise and Statutory Nuisance Act 1993</a> should apply in the authority's area	Non-executive
10.	The inspection of the authority's area to detect any statutory nuisance	Non-executive
11.	The investigation of any complaint as to the existence of a statutory nuisance	Non-executive
12.	The obtaining of information under <a href="#">section 330</a> of the <a href="#">Town and Country Planning Act 1990</a> as to interests inland.	Non-executive
13.	The obtaining of particulars of persons interested inland under <a href="#">section 16</a> of the <a href="#">Local Government (Miscellaneous Provisions) Act 1976</a>	Non-executive
14.	The making of agreements for the execution of highways works	Non-executive
15.	The appointment of any individual— (a) to any office other than an office in which he is employed by the authority; (b) to any body other than— (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	Non- executive
16.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Non-executive
17.	Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within <a href="#">paragraph 1</a> of Schedule 2 Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Non-executive Not applicable

## **Functions of the Cabinet**

10.3. The Leader will prepare a Scheme of Delegation in which the Leader will confirm which of the following functions will be delegated to the Cabinet:

- 10.3.1. responsibility for strategic and policy co-ordination;
- 10.3.2. making recommendations to Full Council for approval as part of the Budget and Key Policy Framework, major new policies, changes to or revisions of existing policies or any other plan or strategy which Full Council decides it shall adopt or approve;
- 10.3.3. carrying out the Council's responsibilities for improving the economic social and environmental well-being of the area;
- 10.3.4. ensuring that the Annual Budget is set and the underlying principles set out in the Financial Regulations adhered to in any changes required from time to time including recommending to Full Council any changes to policy that will materially reduce or increase the services of the Council or create significant financial commitments in future years in accordance with the requirements of the Financial Regulations;
- 10.3.5. recommending to Full Council the overall financial strategy, including the Capital and Revenue Budgets and the level of Council Tax and the Council Tax Base;
- 10.3.6. monitoring spending on the Capital Programme;
- 10.3.7. taking in year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver the Key Policy Framework, Corporate Plan and Budget;
- 10.3.8. considering and responding to recommendations and reports from Overview and Scrutiny Board and Committees;
- 10.3.9. considering the reports of external review bodies on key aspects of overall service delivery;
- 10.3.10. deciding all Local Choice Functions which Full Council has decided should be undertaken by the Cabinet;
- 10.3.11. carrying out those Executive Functions of the Council not delegated to other bodies, individual Cabinet Members or Officers pursuant to one of the schemes of delegation;
- 10.3.12. resolving disputes between Cabinet Members including those where there is no agreement between Portfolio Holders relating to cross-portfolio issues;
- 10.3.13. being involved in the process for appointment of the Council's Chief Executive/Head of Paid Service and other Officers as set out in the Employment Procedure Rules in Part 4;
- 10.3.14. making the final decision on joint arrangements and delegations to other councils which relate to Executive Functions; and



- 10.3.15. conferring with other councils, government departments, statutory bodies, voluntary bodies, and other external agencies.

## **11. Functions of Individual Members of the Cabinet**

### **The Leader**

11.1. The Leader will perform the following functions:

- 11.1.1. leading on implementing the Council's policy and budget decisions;
- 11.1.2. providing leadership of the Council by setting the strategic direction and key priorities, overseeing the development of the financial strategies;
- 11.1.3. representing the Council in the community and in negotiations with regional and national organisations;
- 11.1.4. in the absence of a Portfolio Holder taking responsibility for all relevant matters within the remit of the Cabinet;
- 11.1.5. appointment of a Deputy Leader;
- 11.1.6. appointment of up to 9 Councillors to be Members of the Cabinet;
- 11.1.7. allocating to each Member of the Cabinet areas of responsibility to be known as Portfolios;
- 11.1.8. notifying the Monitoring Officer of the allocation of responsibility so that the information can be compiled in the Cabinet Members' Portfolio Scheme;
- 11.1.9. providing leadership to the Cabinet and chair Cabinet meetings;
- 11.1.10. where the Leader judges it to be the most suitable course of action, the Leader may require any decision proposed by one or more Portfolio Holders to be taken by the full Cabinet;
- 11.1.11. exercising discretion to personally discharge any Executive Functions or make arrangements for their discharge by the Cabinet, another Member of the Cabinet, a Committee of the Cabinet or an Officer (without prejudice to their continued power to discharge that function); and
- 11.1.12. responsibility for all Executive Functions not expressed to be within the remit of the Leader or otherwise delegated by the Leader to the Cabinet, a Cabinet Member, Committee of the Cabinet or to Officers.

### **The Deputy Leader**

11.2. In addition to their Portfolio responsibilities, the Deputy Leader will Deputise in the Leader's absence or inability to act due to a conflict of interest.

## **Delegation to Cabinet Members**

- 11.3. All Cabinet Members will be publicly accountable for the Executive Functions of the Council. This will include specific responsibility for matters within the scope of their Portfolio as follows:
  - 11.3.1. to make decisions consistent with the Council's Key Policy Framework;
  - 11.3.2. to make decisions within approved budgets or within virement discretion in accordance with the Financial Regulations;
  - 11.3.3. to make decisions which do not compromise any existing or proposed policy;
  - 11.3.4. to refer to the Leader any matter considered by the Portfolio Holder or the Leader to be too sensitive or controversial to be decided 'within Portfolio';
  - 11.3.5. to agree decisions with other Portfolio Holders where the matter is a cross-portfolio matter. To refer to the Leader any such matter which cannot be agreed;
  - 11.3.6. to give public account of the functions and decisions made within the Portfolio areas of responsibility;
  - 11.3.7. to maintain clear communication with the Chairmen of the relevant Overview and Scrutiny Board and Committees;
  - 11.3.8. to represent the Council with external bodies and agencies in order to promote the work of the Council and the Council's interests and improve Council influence with external bodies;
  - 11.3.9. to develop clear, affordable policies and strategies for services which are consistent with the Council's wider objectives and consistent with the Council's cross cutting objectives;
  - 11.3.10. to set clear priorities which are consistent with the Council's policies and strategic objectives;
  - 11.3.11. to ensure that resources are efficiently managed within allocations set by Council and that risk is well managed; and
  - 11.3.12. specific projects as agreed with the Leader of the Council.
- 11.4. Where matters are to be discharged by the Cabinet then (unless the Leader directs otherwise) the Cabinet may exercise its discretion to delegate those matters to a Committee of the Cabinet or to an Officer.
- 11.5. Where matters are to be discharged by a single Cabinet Member then unless the Leader directs otherwise that Cabinet Member may exercise their discretion to delegate those matters to an Officer.
- 11.6. Where Executive Functions have been delegated that does not prevent the discharge of the delegated functions by the person or body who delegated them or by the Leader who retains the authority to make any executive decision.

### **Cabinet Portfolio Scheme**

- 11.7. The Portfolios must be contained within a Schedule which will be published on the Council's website, part of this Constitution and subject to review and updating by the Leader of the Council at their discretion.

### **Leader Delegation to Chief Executive**

- 11.8. The Leader will set out specific additional delegations within a Schedule to the Chief Executive over and above those set out below in the Scheme of Delegation to Officers which will be published, part of the Constitution and subject to review and updating by the Leader of the Council at their discretion.

## PART 3B

# SCHEME OF DELEGATION TO OFFICERS



## **B. Scheme of delegation to Officers**

This Part B sets out the Council's Scheme of Delegations to Officers.

### **1. Introduction and Interpretation**

1.1. Unless the context requires otherwise, in this Scheme the terms below shall be construed as follows:

- 1.1.1. "Chief Executive" includes reference to the Head of Paid Service, if different;
- 1.1.2. "Chief Officer" means the Chief Executive together with all other officers who report directly to the Chief Executive and who form part of the corporate leadership team. Details of such officers is available upon request from the Monitoring Officer and is normally published on the Council's website;
- 1.1.3. "delegated power", "delegation" and "delegated" includes a power delegated or nominated to an Officer;
- 1.1.4. "Financial Powers" means the powers, duties and limitations set out in Appendix 1 – Corporate Schedule of Financial Delegations to the Financial Regulations – Part 5 of the Constitution;
- 1.1.5. "Financial Regulations" means the financial regulations as set out in Part 5 of this Constitution;
- 1.1.6. "operation" includes any operational or strategic related matter including:
  - a) authorising the acquisition of any asset or service; and
  - b) the management of land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture and appliances;
- 1.1.7. "Officer", shall include people employed, retained or appointed by the Council to advise and support the Council and its councillors. The term "Officers" in this Constitution unless the context otherwise requires includes all the people who operate in this capacity including contractors, consultants, agency staff and volunteers. Note that for Appendix 3 – Councillor and Officer indemnities, a different definition applies;
- 1.1.8. "Scheme" means this Officer Scheme of Delegations;
- 1.1.9. "Town and Country Planning Legislation means all legislation relating to any function of the Council concerning town and country planning including any such function arising under any of the following:
  - c) the Town and Country Planning Act 1990;
  - d) the Planning (Hazardous Substances) Act 1990;

- e) the Planning (Listed Buildings and Conservation Areas) Act 1990;
  - f) the Planning (Control of Advertisement) Regulations 1992;
  - g) the Hedgerows Regulations 1997;
  - h) the Anti-Social Behaviour Act 2003 (in so far as it relates to high hedges);
  - i) the Planning and Compulsory Purchase Act 2004;
  - j) the Planning Act 2008;
  - k) all of the Town and Country Planning (General Permitted Development) (England) Orders including for the avoidance of doubt the Town and Country Planning (General Permitted Development) (England) Orders of 2015;
  - l) all of the Town and Country Planning (Development Management Procedure) (England) Orders including for the avoidance of doubt the Town and Country Planning (Development Management Procedure) (England) Orders of 2015;
  - m) the Town and Country Planning Act 1971;
  - n) all the Housing and Planning Acts; and
  - o) any regulations, directions and/or other orders made pursuant to any of the above;
- 1.1.10. “undertake all action”, without prejudice to the generality of the phrase includes as necessary:
- a) undertaking any inspection, site visit and/or examination;
  - b) enter land, any premises and/or vehicle for the purposes of exercising any service and/or function;
  - c) giving of authority including in relation to determining and authorising the attendance of any person whether an Officer or otherwise;
  - d) preparing, signing, issuing and/or serving of any document including any direction, notice, licence, order, permission, permit, consent, approval, registration and/or certificate);
  - e) making any determination including a decision to approve, cancel, confirm, grant, make, modify, review, refuse, renew, replace, revoke, suspend, transfer, vary and/or withdraw any documentation referred to above together with the determination of any condition, obligation, limitation, restriction and/ or requirement considered necessary;
  - f) conducting any review and/or appeal and/or any assessment of a similar nature;

- g) exercising any relevant power relating to analysis, certification, checking (including checking of records whether electronic or otherwise), destruction, detention, purchasing, removal, retention, sampling and/or seizure;
- h) recording information through whatever medium including photographic and/or digitally;
- i) undertaking any associated procedural action;
- j) managing any assessment process including determination of the appropriate assessment to use and the scoring of any assessment; and
- k) exercising decision and/or discretion to determine the level of and/or whether to recover any cost incurred in relation to any action.

1.2. Reference in this Scheme to:

- 1.2.1. the Monitoring Officer and the Section 151 Officer includes when the Officer is unavailable, absent or the post is vacant any deputy appointed to act on their behalf;
- 1.2.2. any enactment, order, regulation or similar provision includes any replacement or re-enactment of it with or without modification;
- 1.2.3. any Officer post includes an interim of that post; and
- 1.2.4. “consulting with an Officer” includes consulting with any other person nominated by that Officer to deputise for them.

1.3. With the exception of the Chief Executive, unless otherwise expressly provided for in the delegation or the context otherwise requires, reference to a power delegated to a Chief Officer is only exercisable in relation to the service(s) for which the Chief Officer is responsible whether in whole or part.

1.4. Any provision in this Scheme requiring consultation with any Officer and/or Councillor may at any time be satisfied by that Officer or Councillor providing a written waiver on the need to consult whether in relation to a specific matter or generally and whether in relation to a specific Officer post or otherwise. Any such waiver may be made subject to any limitation and/or exception.

1.5. Irrespective of any other provision in the Constitution (express or implied) a power delegated to an Officer in this Scheme that overlaps with a power of any other body of the Council can also be exercised by the Officer provided that:

- 1.5.1. the delegation to the Officer does not expressly state otherwise; and/or
- 1.5.2. the Officer should normally seek the view of the Chair of the body on whether to exercise the delegation; in considering whether to seek



such a view matters for the officer to consider could include any issue of urgency.

- 11.9. Notwithstanding the provision in Article 14 paragraph 4.1 of Part 2 of the Constitution, a final decision on the meaning and interpretation of the Officer Scheme of Delegations will be made by the Monitoring Officer (or in their absence the Officer responsible for Legal Services) and their view is determinative. However, no delegation in this Scheme shall be interpreted as including any power that is prohibited by law from being delegated to an officer.

## **2. Cascade of powers**

- 2.1. Save as provided for in Appendix 1 to this Scheme – RIPA, an Officer given any delegated power (whether expressly set out in this Scheme or otherwise) can nominate/authorise any other Officer(s) to exercise that power on their behalf provided that officer reports to or performs any function forming part of a service for which the nominating Officer has the whole or a partial responsibility:
- 2.1.1. through a local scheme of delegation (which identifies various standing delegations); and/or
  - 2.1.2. through a specific nomination in relation to an individual decision which must be evidenced in writing, dated and signed by the officer making the nomination.
- 2.2. However, where a person is nominated/authorised to exercise a delegation on behalf of someone else they cannot then delegate anyone else to exercise that power as well.
- 2.3. Some powers may be delegated to an Officer directly by a Committee, Sub-Committee or other relevant arrangement (e.g. via the leader in the case of executive powers). In such cases, unless expressly limited otherwise, it shall be assumed that such a delegation includes power for the Officer to delegate any other Officer(s) to also exercise that delegation in accordance with the provisions of this Scheme.
- 2.4. Where a power has been passed to an Officer the person or body making the delegation may at any time cancel that delegation and may in any event also exercise the power despite the delegation. Where an existing delegation is cancelled the person / body making the cancellation should normally seek to inform the delegated Officer of the cancellation.
- 2.5. Any Officer who delegates the authority to exercise a power to another Officer (whether through a local scheme of delegation or otherwise) should provide the Monitoring Officer with a copy of that delegation as soon as reasonably practicable after making the nomination; however, failure to provide the Monitoring Officer with a copy of the delegation will not invalidate it.

- 2.6. The provisions of this Scheme apply not just to the Officer post to whom a power is delegated but also any Officer delegated by them to exercise the power. An Officer making a delegation should seek to draw the provisions of this Scheme to the attention of the Officer to whom the delegation is made.

### **3. General provisions relating to the exercise of powers by an Officer**

- 3.1. Powers in this Scheme are delegated to Officers by reference to their post title and therefore apply to whoever holds that post title at the time a power is exercised. An Officer post may be left vacant, combined and/or the title changed. For the purposes of this Scheme, reference to any post that is vacant, combined with any other post and/or has its name changed shall be construed as referring to the Officer post(s) which for the time being takes on the relevant responsibilities of the original post.
- 3.2. A power set out in one delegation in this Scheme may sometimes overlap with / duplicate another delegation in whole or part. In such a case each can be operated separate from the other and free of any restriction and/or limitation that specifically relates to the other delegation.
- 3.3. A power may be delegated to more than one Officer. The fact more than one Officer has been delegated / nominated the same power does not create any obligation for an Officer to consult with any of the other Officer(s) to whom the power is delegated.
- 3.4. Prior to exercising a power, an Officer should have regard to relevant matters relating to its exercise, including:
- 3.4.1. relevant provisions in the Constitution including the Financial Regulations and the Council Procedure Rules;
  - 3.4.2. any other relevant Council policies and procedures (compliance with some of which is mandatory);
  - 3.4.3. any related resolution / recommendation by or on behalf of the Council;
  - 3.4.4. the desirability of notifying the Leader / any relevant Cabinet Member (having regard to their respective portfolios) of any action which is likely to be contentious or politically sensitive. Where the Council acts as a lead authority or is part of a partnership jointly exercising functions, this could involve consulting with the appropriate Chair or partnership lead instead or in addition to the Leader / any relevant Cabinet Member;
  - 3.4.5. the need to take advice / seek the views of any other person (which might include another Officer or a Councillor) that would be appropriate;

- 3.4.6. ensuring the Monitoring Officer / Chief Financial Officer (as appropriate) are consulted / advised on any potential decision likely to give rise to governance/ financial probity issues;
  - 3.4.7. ensuring appropriate due diligence where this should be undertaken in relation to the exercise of a power;
  - 3.4.8. any risks in accordance with the Council's Risk Management Strategy;
  - 3.4.9. ensuring appropriate liaison / communication on cross service issues;
  - 3.4.10. the need to undertake appropriate consultation where required by legislative provision or it is identified as relevant to the exercise of a power; and
  - 3.4.11. any staffing, legal and financial implications including the need to secure value for money.
- 3.5. Where the proposed exercise of a power is one where the Leader ought to be consulted and the Leader is absent, unavailable or no Leader has been appointed then the Deputy Leader can be consulted. Similarly, in the absence of the Chair of a Committee the Vice-Chair can be consulted. In the absence of a Cabinet Member the Leader could be consulted as an alternative.
- 3.6. Nothing in this Scheme shall prevent an Officer from deciding not to exercise a power and referring it to some other body / Councillor who also has power to exercise it. In deciding whether to refer on a decision an Officer should in particular have regard to any view expressed by the Leader or Executive Member with whom they have liaised in relation to the proposed exercise of the power.
- 3.7. An officer making a delegated decision shall arrange to ensure that an appropriate record is kept and retained in accordance with the decision-making principles and procedures contained within this Constitution.

#### **4. General limitations relating to the exercise of powers by an Officer**

- 4.1. Unless a delegation expressly provides otherwise the limitations set out in the Financial Regulations and the Employment Powers apply to every delegation contained in this Scheme.

#### **5. Regulation of Investigatory Powers**

- 5.1. Appendix 1 of this Scheme contains provisions relating to the Council's policy under the Regulation of Investigatory Powers Act and the delegation of various powers in relation to it.

#### **6. Proper Officer**

- 6.1. Appendix 2 of this Scheme makes provision relating to the identification of various Proper Officers for the purposes of relevant legislative provisions.

## **7. Member and Officer Indemnities**

- 7.1. Appendix 3 of this Scheme set out indemnity provisions adopted by the Council in relation to its Councillors and Officers.

<b>Delegations to All Officers</b>	
<b>Ref</b>	<b>Delegation</b>
1	To act as a witness: <ul style="list-style-type: none"> <li>(a) on behalf of the Council in any proceedings in which the Council is directly involved; and/or</li> <li>(b) where so directed by a court, tribunal, hearing or other inquiry with power so to do; and/or</li> <li>(c) in any other circumstance with the prior written approval of the Monitoring Officer.</li> </ul>
2	To undertake all action relevant to that Officer that is required by or identified in the Financial Regulations as applicable to that Officer.
3	To undertake all action relevant to any matter to which an Officer is given a role, power or activity pursuant to any provision set out in the Constitution including any of the appendices to this Scheme.

<b>General Operational Delegation to the Chief Executive</b>	
<b>Ref</b>	<b>Power</b>
4	To undertake all action relating to the operation of any of the Council's services including incurring expenditure from working balances and/or reserves provided that: <ul style="list-style-type: none"> <li>(a) any such action will not result in the overall budget for any individual service being exceeded unless the Section 151 Officer confirms that any overspend can be offset against working balances and/or other service underspends;</li> <li>(b) the Section 151 Officer gives approval; and</li> <li>(c) where they consider it appropriate and feasible to do so, there has been prior consultation with any relevant Chief Officer(s).</li> </ul>

<b>General Operational Delegations to each Chief Officer excluding the Chief Executive</b>	
5	To undertake all action relating to the operation of Council's services for which they are responsible in whole or part provided any such action will not result in the overall budgets for which the Chief Officer is responsible in whole or part being exceeded.
6	If at any time the Chief Executive is absent, unavailable or the post of Chief Executive is vacant to exercise any power whether specified in this Scheme or otherwise delegated to any other Officer unless expressly prohibited by law irrespective of whether it relates to a service for which the Chief Officer is responsible.

<b>General Human Resource Delegations to each Chief Officer</b>	
<b>Ref</b>	<b>Power</b>
7	To determine whether to appoint any Officer (excluding the posts of Chief Executive and any Chief Officer) within approved structures and budgets.
8	<p>To exercise the day-to-day management of Officers including matters relating to:</p> <ul style="list-style-type: none"> <li>(a) health and safety;</li> <li>(b) any capability, disciplinary and/or dismissal issue;</li> <li>(c) any grievance issue; and/or</li> <li>(d) any other personnel related issue.</li> </ul>

<b>Specific delegations to the Chief Executive</b>	
<b>Ref</b>	<b>Power</b>
9	To undertake all action related to the role of Head of Paid Service.
10	To exercise any power whether specified in this Scheme or otherwise delegated to any other Officer unless expressly prohibited by law.
<b>Emergency</b>	
11	<p>In a situation that they consider to be an emergency, to undertake all action they consider necessary, including:</p> <ul style="list-style-type: none"> <li>(a) incurring expenditure from working balances and/or reserves,</li> <li>(b) to determine whether to take, defend and/or settle any legal proceedings;</li> <li>(c) to make a final determination whether to acquire and/or dispose of building and/or land,</li> </ul> <p>subject to consultation with the s151 Officer to the extent they consider it appropriate and feasible, and to notifying any emergency action as soon as reasonable to the Leader. For the purposes of exercising this power, all restrictions and/or limitations in the Employment Powers and in the Financial Regulations including the Financial Powers and the Procurement and Contract Procedure Rules are deemed waived and any decision may be made regardless of whether it is a Key Decision (see Procedure Rules for publication of urgent key decision).</p>
<b>Governance</b>	
12	To determine appointments to any statutory panels.
13	To approve Councillor's attendance at any conference and the payment of any expense or allowance in accordance with the adopted scheme of member allowances as set out in this Constitution.
14	To summon a meeting of the Council.
15	To undertake all action in connection with the arrangement of civic and ceremonial functions.

<b>Human Resource matters</b>	
16	To deal with all matters relating to the paid employment of Council officers.
17	To determine any change to the whole or any part of the employee establishment / structure of the Council including power to incur expenditure subject to prior consultation with the Section 151 Officer.
18	To determine the composition of any panel required to consider any employee issue, subject to consultation with the Officer responsible for Human Resources.
19	To determine the grading and regrading of posts provided that funding for any associated costs is available.
<b>Officer Designations</b>	
20	To designate an Officer as an authorised officer to exercise the Council's powers under any statutory provisions, subject to any legal requirement that Council approval is required.
21	To undertake all action to ensure the effective delivery of the Council's emergency planning function subject to the prior consultation with Section 151 Officer to the extent it will result in expenditure from working balances or reserves.
<b>Operational Decisions</b>	
22	To publish notices as required on behalf of the Council under any legislation except where this is specifically delegated by this Scheme or reserved by law to another Chief Officer or other named Officer.
23	To undertake all action to comply with health and safety legislation including the power to incur expenditure from existing balances or reserves subject to the approval of the Section 151 Officer.
24	<p>To the extent it is not covered by Appendix 2 of this Scheme to be the Proper Officer and the person authorised to carry out any function or action described in:</p> <ul style="list-style-type: none"> <li>(a) any regulations relating to referendums, petitions and/or directions;</li> <li>(b) the Criminal Procedure and Investigations Act 1996 relating to the appointment of Disclosure Officers;</li> <li>(c) any other legislative provision; and/or</li> <li>(d) the Constitution not otherwise specifically delegated to another Officer, including the power to appoint or nominate any other Officer to act.</li> </ul>
25	To sign any Council document not otherwise covered by this Scheme.
26	To determine the content and be responsible for any publication scheme (including determining any charges) under freedom of information and/or data protection legislation.
27	Subject to prior consultation with at least one Executive Member, to determine whether to close any of the Council offices for reasons of efficiency around Christmas and New Year or any other bank holiday period.

<b>Proper Officer</b>	
29	To appoint any Officer to be a Proper Officer for the purposes of any function of the Council.

<b>Delegation to each Chief Officer and Duty Gold and Silver Officers in relation to a declared emergency or major incident</b>	
<b>Ref</b>	<b>Power</b>
30	<p>To undertake all action, including committing such resources and suspending any aspect of business as usual as they consider appropriate whether from a service for which they are responsible or otherwise, to meet what they consider to be the Council's responsibilities and duties in relation to a declared emergency or major incident provided that:</p> <ul style="list-style-type: none"> <li>(a) any financial expenditure shall not exceed any relevant limit set out in the Council's Emergency Response Plan;</li> <li>(b) all decisions are made on best advice available to the decision maker at the time and on the basis that the decision is a reasonable one in the circumstances;</li> <li>(c) notification of any decision taken is given to the Leader, the Deputy Leader any relevant Executive Member, the Chief Executive, the Monitoring Officer and the Section 151 Officer as soon as reasonably practicable; and</li> <li>(d) a schedule of decisions is reported as soon as reasonably practicable to a meeting of Cabinet.</li> </ul> <p>For the purposes of exercising this power, all restrictions and/or limitations in the Employment Powers and in the Financial Regulations including the Financial Powers and the Procurement and Contract Procedure Rules are deemed waived and any decision may be made regardless of whether it is a Key Decision (see Procedure Rules for publication of urgent key decision).</p>

<b>Delegations to each Chief Officer</b>	
<b>Communications</b>	
31	To determine whether to authorise the release of information or other documentation to the press, any member of the public or external body.
<b>Complaints</b>	
32	To undertake all action in connection with the preparation and issuing of any information and/or response to a complaint against the Council made pursuant to the Council's formal complaints procedure or Ombudsman complaint.
33	<p>To resolve a complaint, including the approval of compensation in respect of:</p> <ul style="list-style-type: none"> <li>(a) any complaint made through the Council's complaint procedure; and/or</li> </ul>



	(b) any finding of maladministration by the Local Government and Social Care Ombudsman, including the power to incur expenditure from working balances and /or reserves subject to prior approval of the Section 151 Officer.
34	Subject to prior consultation with the Monitoring Officer to settle any claim or potential claim made by or against the Council in a sum not exceeding £50,000 including power to authorise expenditure from working balances and/or reserves subject to the prior approval of the Section 151 Officer.
<b>Financial</b>	
Please refer to Part 5 (Financial Regulations) of the Constitution for responsibilities, powers and delegations	
<b>Governance</b>	
39	To sign off and/ or approve a report or item to go to any body of the Council and/or any other body of which the Council is part.
<b>Operational Decision Making</b>	
40	To undertake all action to give effect to any decision of or on behalf of the Council.
41	To instruct / appoint and/or authorise any external person (including any consultant) or body (excluding legal professionals) to undertake work and/or act for and/or on behalf of the Council in respect of any matter (including at any legal proceedings, tribunal, hearing, inquiry or similar body) relating to any work undertaken by any service for which the Chief Officer is responsible in whole or part and/or to which they are providing support.
42	To determine whether to enter and to enter into any contract or agreement for works, services and/or supplies, including all terms, provided that: <ul style="list-style-type: none"> <li>(a) any expenditure incurred can be met from a relevant budget; and,</li> <li>(b) the process followed is in accordance with the Procurement &amp; Contract Procedures.</li> </ul>
43	To undertake all action relating to any matter arising in respect of any appeal, call-in, inquiry and/or hearing of whatever nature to which the Council is party including: <ul style="list-style-type: none"> <li>(a) to determine any procedural issue and any response to a procedural issue relating to any such matter including the Council's preferred format and venue of any such matter where any discretion exists; and</li> <li>(b) to determine whether or not to defend the whole or any part of the proceedings / Council's reason(s) in respect of which the appeal etc is taking place.</li> </ul>
44	To determine whether or not to support a bid by any organisation for any external grant/funding provided that any such support will not result in the overall budget for which the Chief Officer is responsible being exceeded.

45	To enter into an agreement with any voluntary agency, charity or public sector organisation, where the Council has or is proposing to offer financial and/or other assistance to that body, provided that no agreement shall commit the Council to utilise resources that are not available for this purpose and there is relevant insurance provision in place.
46	To determine the terms of and enter into agreements with any organisation to place staff at the disposal of that organisation.
47	To administer the supply of goods, works and/or services to any external person/body.
48	To undertake all action in connection with any application to the Council for a grant in respect of which they have been given a budget provided that any expenditure incurred can be met from that budget.
49	To determine whether and how to respond on behalf of the Council to any local, county, sub-regional, regional or national consultation on matters affecting the Council subject to prior consultation with an Executive Member where it relates to an Executive function.
50	To determine whether to approve (with or without modification) or refuse any draft plan and/or strategy for public consultation subject to prior consultation with an Executive Member (where it relates to an Executive Function) and to undertake all action associated with any such public consultation.
51	To determine whether to enforce and to take any steps to enforce the terms of any agreement, contract, licence, lease or any other legal instrument to which the Council is a party.
52	<p>To:</p> <ul style="list-style-type: none"> <li>(a) make any planning application and/or any other application under any Town and Country Planning Legislation provided that in both cases: <ul style="list-style-type: none"> <li>(i) there is prior consultation with the Chief Operations Officer; and</li> <li>(ii) no such application will result in the overall budgets for which the Chief Officer is responsible being exceeded; and /or</li> </ul> </li> <li>(b) provide a consultation response to any application under any Town and Country Planning Legislation.</li> </ul>
53	<p>In respect of any application submitted to the Council to undertake all action in relation to:</p> <ul style="list-style-type: none"> <li>(a) its administration and processing;</li> <li>(b) its determination; and or</li> <li>(c) the administration, processing and determination of any matter consequent on any permission, consent, approval and/or other determination resulting from any such application.</li> </ul>

54	<p>To undertake all action for the purpose of investigating and/or enforcing (including authorising any court proceedings) any:</p> <ul style="list-style-type: none"> <li>(a) actual, perceived or potential breach of any statutory provision; and/or</li> <li>(b) consent, authorisation, permit, registration, certificate, license, notice, order, permission or other document of a similar nature (including any condition, obligation, restriction, limitation or any other provision) given, issued or made by the Council,</li> </ul> <p>provided that court proceedings should only be authorised after prior consultation with the Monitoring Officer</p>
55	<p>To undertake any inspection of land and/or buildings and/or exercise any related powers of entry including power to undertake all action as a consequence of the inspection but excluding authorising the initiation of any formal court proceeding unless there has been prior consultation with the Monitoring Officer.</p>
56	<p>To undertake all action in connection with the issuing and serving of any notice for the purposes of securing information relating to any function of the Council, including any notice:</p> <ul style="list-style-type: none"> <li>(a) under Local Government (Miscellaneous Provisions) Act 1976; and</li> <li>(b) relating to any town and country planning function of the Council.</li> </ul>
57	<p>To issue any licence or control any registration of persons or premises on behalf of the Council under any legislation except where this is specifically reserved by law to a specific Chief Officer or other named Officer.</p>
58	<p>To authorise any Officer that they consider appropriate:</p> <ul style="list-style-type: none"> <li>(a) to carry out any inspection and/or examination;</li> <li>(b) to carry out any action arising during and/or out of any inspection and/or examination (including analysis, certification, checking, destruction, detention, measurement, purchasing, sampling, seizure and/or testing);</li> <li>(c) to exercise any power of entry available to the Council;</li> <li>(d) to issue any document relating to an inspection and/or examination including any notice;</li> <li>(e) to serve any document;</li> <li>(f) to undertake any work in default and/or supervision or management of such work;</li> <li>(g) to undertake any enforcement activity; and/or</li> <li>(h) to seek a warrant,</li> </ul> <p>provided that in all cases the Chief Officer believes that any cost associated with the authorisation can be met from within their existing budget and/or the prior approval of the Section 151 Officer is obtained.</p>

59	<p>To appoint/authorise any Officer and any other person undertaking any task for or on behalf of the Council to be:</p> <ul style="list-style-type: none"> <li>(a) an inspector;</li> <li>(b) an authorised officer; and/or</li> <li>(c) an enforcement officer,</li> </ul> <p>including power to authorise any such Officer /person to undertake all action relevant to the performance of such a role in relation to any service and/or function of the Council.</p>
60	<p>To undertake all action in connection with any fixed penalty notice, including:</p> <ul style="list-style-type: none"> <li>(a) to determine any relevant content; and/or</li> <li>(b) to determine whether or not to issue a notice,</li> </ul> <p>but excluding authorising the initiation of any formal court proceedings.</p>
61	<p>Subject to prior consultation with the Monitoring Officer to determine whether to issue a caution of whatever nature as an alternative to undertaking any prosecution.</p>
62	<p>To authorise and take action to secure a warrant.</p>
63	<p>To monitor, store, archive and/or destroy Council documentation provided this accords with the Council's relevant document retention and destruction policies.</p>
64	<p>To undertake all action in connection with the receipt of any expression of interest in relation to the community right to challenge. This power includes the power to receive and validate any expression of interest, provided that:</p> <ul style="list-style-type: none"> <li>(a) in making a decision whether to accept or reject an expression of interest there has been prior consultation with appropriate Executive Members and applicable ward councillors; and</li> <li>(b) the expression of interest is reported to Full Council / in accordance with Executive arrangements within three months of receipt.</li> </ul>
65	<p>To undertake all action in connection with a request for the release of information pursuant to:</p> <ul style="list-style-type: none"> <li>(a) any freedom of information legislation;</li> <li>(b) any environmental information legislation;</li> <li>(c) any data subject access request; and/or,</li> <li>(d) any other legislation.</li> </ul>
66	<p>To undertake all action relating to the entering into of any short-term lease and/or letting arrangement in respect of any land or building for a term not exceeding 6 months including the agreement of any terms associated with such an arrangement provided that:</p> <ul style="list-style-type: none"> <li>(a) they consider it is necessary in relation to the discharge of a function; and</li> <li>(b) any cost associated with any such transaction can be met from within existing budgets for which the Chief Officer is responsible.</li> </ul>
<b>People Management</b>	

67	To determine changes to the number and distribution of posts for which they are responsible subject to financial provision for the current and future years being available. Where changes are proposed to the Chief Officer structure a report to the Chief Executive will be required before any such changes are implemented. All other changes to structures remain delegated to Chief Officers.
68	To determine changes to the grading of posts taking account of job evaluation outcomes for posts covered by job evaluation schemes provided that funding for any associated existing and future cost is available and any such change does not conflict with the Employment Powers.
69	To determine whether to make an individual's post redundant, or agreeing to an individual's early retirement, subject to: <ul style="list-style-type: none"> <li>(a) the approval of the relevant committee in respect of the award of discretionary payments in cases which involve the early introduction of pension benefit where this is required by any relevant HR policy;</li> <li>(b) funding associated with any redundancy payment being available; and</li> <li>(c) this does not conflict with the Employment Powers.</li> </ul>
70	To determine whether to authorise and sign an identity card of, any Officer (including any inspector, authorised officer, enforcement officer and/or other person undertaking work for or on behalf of the Council) necessary for the proper performance of that Officer's duties.
<b>RIPA</b>	
71	To exercise the role of authorising officer and designated person as set out in Appendix 1.
<b>Signing Documents</b>	
72	To: <ul style="list-style-type: none"> <li>(a) sign any document; and / or</li> <li>(b) affix and attest the Council seal to any order, deed or other document, to give effect to any decision of or on behalf of the Council.</li> </ul>
<b>Urgency</b>	
73	In any case that they consider to be urgent, to undertake all action for the purposes of discharging any function and/or delivering any service (including power to authorise the seeking of an injunction / progressing an action for contempt), provided that: <ul style="list-style-type: none"> <li>(a) there is prior consultation with the Monitoring Officer;</li> <li>(b) there is consultation with such Executive Member or Chair of an appropriate Committee as they consider is appropriate in the time available; and,</li> <li>(c) to the extent it will incur expenditure from working balances and/or reserves, there is the prior approval of the Section 151 Officer.</li> </ul> For the purposes of exercising this power, all restrictions and/or limitations

	<p>in the Employment Powers and in the Financial Regulations including the Financial Powers and the Procurement and Contract Procedure Rules are deemed waived and any decision may be made regardless of whether it is a Key Decision.</p> <p>Any action taken in this way shall be reported to the next meeting of Cabinet and Full Council.</p>
--	--

<p><b>Specific delegations of particular relevance to the Section 151 Officer / Director - Finance</b></p>
--

<p>Please refer to Part 5 (Financial Regulations) of the Constitution for responsibilities, powers and delegations</p>
--

<p><b>Specific delegations of particular relevance to the Monitoring Officer / Director – Law and Governance</b></p>
--

Ref	Delegation
-----	------------

<b>Councillor</b>	
-------------------	--

108	In accordance with any Council scheme and/or policy (if any) to determine whether to authorise the payment of any member allowance and/or expense.
109	Subject to consultation with Chair of Council to determine whether to approve any expenditure on civic hospitality.
110	To authorise any Councillor attendance at a conference, session and/or workshop.

<b>Governance</b>	
-------------------	--

111	To undertake all action in connection with the provision of reasons and responses to representations in relation to the holding of private meetings.
-----	--

<b>Legal</b>	
--------------	--

112	To authorise, institute, defend, appear in and settle any legal proceedings or possible legal proceedings (including any appeal, review of similar proceedings against any action or proceedings in any tribunal, inquiry, hearing or other forum of legal proceedings) by or on behalf of the Council, together with power to undertake all preliminary or further work as they consider appropriate.
113	To authorise any officer of the Council to appear in any court or tribunal.
114	To instruct/appoint and/or authorise any person (including counsel and/or any consultant) or body to undertake work and/or act for and/or on behalf of the Council in respect of any legal issue (including any legal proceedings, tribunals, hearings and/or inquiries) relating to the Council including whether to outsource any legal work.

115	Subject to such initial prior consultation with a person from the Estates Unit as they consider appropriate to undertake all action in respect of any trespass on Council owned land including action to secure the cessation of the trespass and/or to seek to prevent its recurrence.
116	To undertake all action in connection with the preparing and/or issuing of any: <ul style="list-style-type: none"> <li>(a) licence, lease, transfer and/or, conveyance concerned with the acquisition and/or disposal of any interest in land or property; and/or</li> <li>(b) easement and/or wayleave,</li> </ul> including in consultation with the Estates Unit, determining any rent level, fee and all other terms associated within any such document.
117	To undertake all action in connection with the preparing and/or issuing of any contract, notice, order, permit, certificate, requisition or other document including any: <ul style="list-style-type: none"> <li>(a) byelaw;</li> <li>(b) contract relating to the supply of any good and/or service;</li> <li>(c) order for the control of drinking in public places and/or a public spaces protection order;</li> <li>(d) notice and/or order relating to any vehicle;</li> <li>(e) stop notice;</li> <li>(f) temporary stop notice;</li> <li>(g) road closure; and</li> <li>(h) application for late night shopping.</li> </ul>
118	To undertake all action in connection the recovery of any actual or perceived proceeds of crime, whether under the powers of the Proceeds of Crime Act 2002 or otherwise, including any necessary preliminary and subsequent action to secure and then progress the outcome of any determination, provided that there is initial consultation with an Executive Member as to whether or not to pursue any related application.
119	In consultation with such Chief Officers as they consider appropriate (if any) to determine whether to accept or reject (and whether or not subject to conditions) any purchase notice served on the Council pursuant to any Town and Country Planning Legislation if a decision is required before the next normal meeting of a councillor body with power to determine such matters.
120	To determine whether to issue or withhold any consent or approval under the terms of any lease, conveyance or other document including power to determine whether or not to issue any certificate or other document in relation to the provisions of any planning obligation together with power to undertake all actions to give effect to and as a consequence of any determination.
<b>Monitoring officer</b>	
121	To exercise all statutory powers of the monitoring officer of the Council.

122	To determine whether to grant a dispensation in respect of any disclosable pecuniary interest or other registerable interest.
123	To: <ul style="list-style-type: none"> <li>(a) dismiss any such complaint that is trivial or concerns conduct that would not be a breach of the relevant Council's code of conduct; and/or</li> <li>(b) to refer any complaint concerning a failure to disclose a disclosable pecuniary interest to the police without further reference.</li> </ul>
<b>Referendums</b>	
124	To make arrangements for (including the holding of) any referendum.
<b>Registers</b>	
125	To determine any application to amend the register of common land and town and village greens (except applications to register or de-register land as common land and town and village greens).
<b>Signing and Sealing</b>	
126	To sign and issue any certificate confirming the Council's power to enter into a contract where this is legally required.

<b>Specific Delegations of particular relevance to the Chief Operations Officer</b>	
<b>Ref</b>	<b>Power</b>
<b>General</b>	
127	To undertake all action relating to: <ul style="list-style-type: none"> <li>(a) the acquisition or disposal of any land or building; and/or</li> <li>(b) any grant and/or termination of any lease or licence for any land or building;</li> <li>(c) any other transaction associated with any land or building, provided that in all cases: <ul style="list-style-type: none"> <li>(i) the sum of money associated with any such acquisition, disposal or other transaction (including termination) does not exceed £500,000; and</li> <li>(ii) all costs associated with any such transaction can be met from within a budget available for such purposes.</li> </ul> </li> </ul>
<b>Highways / public rights of way / public access</b>	
128	To undertake all action relating to the regulation of highways, public rights of way and/or public access including: <ul style="list-style-type: none"> <li>(a) the processing, administration and determination of any application or request arising in relation to any such matter; and /or</li> <li>(b) the making of any order relating to any highway, public right of way and/ or public access in the area of the Council including any order under: <ul style="list-style-type: none"> <li>(i) the Highways Act 1980; and/ or</li> </ul> </li> </ul>



	(ii) the Road Traffic Regulation Act 1984.
<b>Licensing</b>	
129	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Licensing Act 2003 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 10 Licensing Act 2003 or otherwise cannot be discharged by an Officer.*
130	To undertake all action in connection with the submission of any scheme, details and/or other matter pursuant to any licence, notice, permission, consent, approval or other determination issued by or on behalf of the Council pursuant to the Licensing Act 2003 or the Gambling Act 2005.*
131	To prepare and issue reports on behalf on the Licensing Committee where a matter relates to a licensing function under the Licensing Act 2003 or the Gambling Act 2005 and is necessary to facilitate the exercise of another function of the Council.*
132	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Gambling Act 2005 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 154 Gambling Act 2005, section 10 Licensing Act 2003 (as it applies to the Gambling Act) or otherwise cannot be discharged by an Officer.*
<p>* Delegations to Officers in relation to the Licensing Act 2003 and the Gambling Act 2005 rest with the Licensing Committee.</p> <p>For the avoidance of doubt:</p> <p>(a) references to the Licensing Act 2003 and the Gambling Act 2005 include any regulations, directions and/or other orders made pursuant to either of them; and</p> <p>(b) all interpretation and other provisions set out in the Introduction and General provisions sections at the start of the Officer Scheme of Delegations shall apply equally to these delegations including powers relating to nomination.</p>	
<b>Planning</b>	
133	<p>In undertake all action relating to any matter arising in relation to any Town and Country Planning Legislation including in respect of any application submitted to the Council under any Town and Country Planning Legislation power to undertake all action in relation to:</p> <p>(a) the administering and processing of any such application including:</p> <p>(i) any application submitted wholly or partly under section 73 and/or section 73A of the Town and Country Planning Act</p>

	<p>1990;</p> <p>(ii) any application for listed building consent;</p> <p>(iii) any application for permission in principle and/or technical detail consent;</p> <p>(iv) any reserved matter application; and/or</p> <p>(v) any certificate of lawful use,</p> <p>(b) the determination of any such application including whether to require / impose any condition, obligation, limitation and/or any other restriction and/or requirement in respect thereof but excluding the determination of any such application that is expressly identified as being the responsibility of the Planning Committee in Part 3, Section 2 of the Constitution; and/or</p> <p>(c) the administration, processing and determination of any matter consequent on any permission, consent, approval and/or other determination arising from such an application including determining any information provided pursuant to any condition or obligation.</p>
--	---

**Specific Delegations of particular relevance to the Corporate Director – Children’s Services**

Ref	Power
134	To be the director of children’s services for the purposes of exercising all functions identified in section 18 of the Children Act 2004 and any relevant regulations which must or may be made the responsibility of that post including power to undertake all action in relation not all such functions
135	To determine whether to approve any school governor appointment for which the Council has responsibility.

**Specific delegations of particular relevance to the Shared Director of Public Health**

Ref	Power
136	To be the statutory director of public health for the purposes of exercising all functions identified as being the responsibility of that post in section 73A of the National Health Service Act 2006 and any relevant regulations.
139	To determine any expenditure from the Public Health Grant.
140	In addition to the delegated powers above, the Shared Director of Public Health shall also have all delegated powers given to that post by Dorset Council.

# Appendix 1 - Regulation of Investigatory Powers Act 2000 (RIPA)

## 1. Introduction

- 1.1. The Council maintains a RIPA policy that includes identification of Officers employed within the Council appointed to roles identified with that policy. Officers appointed to such roles have power to undertake all action ascribed to those roles in any relevant legislation and any policy adopted by the Council in relation to RIPA.
- 1.2. Notwithstanding any other provision in this Scheme an Officer who is identified in any relevant RIPA policy to authorise surveillance cannot nominate any other Officer to exercise the power on their behalf.

## 2. Delegations

- 2.1. Any Officer employed by the Council or any partner of the Council who is appointed to undertake the role of RIPA Officer on behalf of the Council shall have power to undertake all action to update the RIPA policy at any time to reflect changes to Officers appointed to roles within the RIPA policy.
- 2.2. In the absence of any Officer being identified in a RIPA policy to authorise surveillance the following Officers shall be able to exercise such a power to the extent identified.

<b><u>Post</u></b>	<b><u>Purpose of Authorisation</u></b>
Chief Executive	All purposes (including where there is a likelihood of acquiring confidential information)
Monitoring Officer	All purposes (including but only in the absence of the Chief Executive where there is a likelihood of acquiring confidential information)
Chief Operations Officer	All purposes for services for which they are wholly or partly responsible (but excluding where there is a likelihood of acquiring confidential information)

## Appendix 2 - Proper Officer

### 1. Proper Officer Functions

- 1.1. Various legislative provisions provide for certain functions to be performed by a "Proper Officer". The table below sets out Officers appointed as "Proper Officer" for the different identified purposes.
- 1.2. For the purposes of interpreting the table, where:
  - 1.2.1. more than one Officer is identified, then the first named Officer shall have primary responsibility to act as Proper Officer; however, the other named Officers may still act for and on behalf that person as Proper Officer including in particular when the first named Officer is absent or is for any other reason unable to perform the role at the appropriate time; and
  - 1.2.2. the legislation identifies the need to make proper arrangements the Officer identified shall have the primary responsibility for seeking to secure such arrangements.
- 1.3. In the absence of an Officer being identified as a Proper Officer for any specific provision then the Chief Executive shall be the Proper Officer in respect of that provision provided that, unless the law otherwise requires, the Chief Executive may at any time appoint another Officer to be the Proper Officer for the purpose of any function.
- 1.4. To the extent that any Officer is nominated or delegated the exercise any power relating to a Proper Officer function whether by way of express or by virtue of the exercise of any provision in the Constitution then that Officer shall be deemed to be appointed as a Proper Officer for the purposes of that function whether or not that Officer is also identified as being such a Proper Officer in the table below but subject as may be provided for in any such nomination or delegation.

Legislative provision	Function	Proper Officer
<b>Registration Service Act 1953</b>		
All	All Proper Officer purposes identified in the legislation	Director of Law and Governance; Chief Executive
<b>Local Government Act 1972</b>		
Section 13	Parish Meeting	Chief Executive
Section 83	Witness and receipt of Declaration of Acceptance of Officer	Chief Executive; Director of Law and Governance
Section 84	Resignation of mayor	Chief Executive

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
Section 88	Arranging a Council meeting to appoint the Mayor	Chief Executive
Section 89	Notice of casual vacancy in office of councillor	Chief Executive; Director of Law and Governance
Section 100(B) (2)	Designation of reports "not for publication" to the press and public	Chief Executive All Tier 2 and Tier 3 officer posts
Section 100(B) (7)	Supply of copies of documents	Director of Law and Governance
Section 100(C)	Written summary of the proceedings at Committees and Sub-Committees	Director of Law and Governance
Section 100(D)	Background papers	Chief Executive All Tier 2 and Tier 3 officer posts
Section 100(F)	Exempt information	Chief Executive All Tier 2 and Tier 3 officer posts
Section 115	Receipt of money due from officers	Section 151 Officer
Section 137A	Provision of report or accounts	Section 151 Officer
Section 146	Declarations and certificates with regard to transfer of securities	Section 151 Officer
Section 151	Proper administration of the Council's financial affairs	Section 151 Officer
Section 191	Officer to whom an application under s1 of the Ordnance Survey Act 1841 will be sent	Chief Executive
Section 225	Deposit of documents	Chief Executive All Tier 2 officer posts
Section 229	Certification of photographic copies of documents	Director of Law and Governance; Chief Executive and all other Tier 2 officer posts
Section 234	Signing/ Authentication of Documents	Director of Law and Governance; All other Tier 2 officer posts
Section 236	Sending of byelaws	Director of Law and Governance;
Section 238	Certification of byelaws	Director of Law and Governance
Section 248	The roll of Freeman	Chief Executive; Director of Law and Governance
Schedule 12	Issues relating to Council meetings	Chief Executive;

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
		Director of Law and Governance and any other person identified for such purpose in the Constitution
Schedule 14	Certification of resolution for legal proceedings	Director of Law and Governance
<b>Local Government Act 1974</b>		
Section 30	Receipt of Ombudsman reports	Director of Law and Governance; Chief Executive
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41(1)	Certify copies of evidence of resolutions and minutes of proceedings	Director of Law and Governance
<b>Rent Agriculture Act 1976</b>		
Schedule 4	Provision of certificate of alternative accommodation	Chief Executive and all Tier 2 officer posts
<b>Rent Act 1977</b>		
Schedule 15 Part (iv)	Provision of certificate of suitable alternative accommodation	Chief Executive and all Tier 2 officer posts
<b>Representation of the People Act 1983</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive
<b>Public Health (Control of Disease) Act 1984</b>		
All	All Proper Officer purposes identified in the legislation	Chief Operations Officer
<b>Building Act 1984</b>		
Section 78	Giving of notice and taking such steps as are necessary to remove danger in respect of any dangerous building or structure	Chief Operations Officer Director of Law and Governance
<b>Local Government and Housing Act 1989</b>		
Section 2	Deposit of list of politically restricted posts	Corporate Director - Resources
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive; Director of Law and Governance; Head of Democratic Services

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive Corporate Director - Resources
<b>Local (Principal Area) (England and Wales) Rules 2006</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive; Director of Law and Governance; Head of Democratic Services
<b>Localism Act 2011</b>		
Section 33	Grant of dispensation	Officer appointed to the post of Monitoring Officer; Chief Executive

## Appendix 3 - Councillor and Officer indemnities

### 1. Interpretation

1.1. For the purpose of these indemnities and undertaking:

- 1.1.1. "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court in the United Kingdom;
  - 1.1.2. "Councillor" means an elected councillor of the Council at the time of any neglect, act, error or omission;
  - 1.1.3. "failing to act" / "failure to act" / "failure" (or any similar phrase) includes any failure to act and/or any omission;
  - 1.1.4. "Officer" means a person employed by the Council at the time of the neglect, act, error or omission, but does not include a person undertaking work for the Council through an agency or a person performing a service under a contract with the Council for the provision of that service other than a contract of employment directly with the Council; and
  - 1.1.5. in relation to a Councillor or Officer acting or failing to act "in their capacity as a Councillor or Officer of the Council" means any action and/or failure to act which:
    - a) was authorised by the Council; and/or
    - b) formed part of, or arose from any powers conferred, or duties placed, upon the Councillor or Officer, as a consequence of any function being exercised by that Councillor or Officer (whether or not when exercising that function they did so as a Councillor or Officer of the Council):
      - i. at the request of, or with the approval of the Council; and/or
      - ii. for the purposes of the Council,
- including in either case:
- c) where the Councillor or Officer in question at the time when they acted and/or failed to act:
    - i. reasonably believed that the action, or failure to act, was within the powers of the Council; and/or
    - ii. where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any



statement that certain steps had been taken and/or requirements fulfilled, the Councillor or Officer reasonably believed that the contents of that statement was true; and/or

- d) any action and/or omission beyond the power of the Councillor or Officer in question but only to the extent that the Councillor or Officer reasonably believed the act and/or omission was within their powers at the time when they acted.

- 1.2. These indemnities and undertakings shall apply during a Councillor's term of office or an Officer's employment by the Council, to any act or failure to act and shall continue to apply after the Councillor or Officer has ceased to be a Councillor or Officer of the Council.

## **2. Indemnity for loss or damage**

- 2.1. Subject to the provisions in paragraph 3, the exclusions in paragraph 4 and to the terms in paragraph 5, the Council will indemnify all its Councillors and Officers against any loss or damage suffered by a Councillor or Officer (including any award of costs and/or damages against the Officer or Councillor), in relation to any action of and/or failure to act by the Councillor or Officer in question in their capacity as a Councillor or Officer of the Council.

## **3. Indemnity for civil and criminal proceedings**

- 3.1. The Council will, subject to paragraphs 3.2, 3.3 and 3.4 and to the exclusions and terms in paragraphs 4 and 5, indemnify all its Councillors and Officers against the reasonable costs which they may incur in securing appropriate legal advice and representation in respect of any actual or prospective civil or criminal proceedings arising from their act or failure to act in their capacity as a Councillor or Officer of the Council.
- 3.2. The indemnity in paragraph 3.1 applies for the defence of defamation proceedings by a Councillor and Officer subject to the alleged statement being made in the Councillor's capacity as a Councillor of the Council or the Officer's capacity as an Officer of the Council; but not for the bringing of defamation proceedings.
- 3.3. The indemnity in paragraph 3.1 is subject to a condition that if the Councillor or Officer is convicted of a criminal offence in consequence of such proceedings and the conviction is not overturned on appeal, the Councillor or Officer shall reimburse the Council for any sums expended by the Council under this indemnity in relation to those criminal proceedings and the Councillor or Officer shall, if required by the Council, sign an agreement confirming this before the release of any money by the Council provided that for the avoidance of doubt that in such a case the indemnity will continue to apply in relation to any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

- 3.4. Where an act or failure to act occurred not in relation to the discharge of any function or purported function of the Councillor or Officer as a Councillor or Officer of the Council but in their capacity or purported capacity as a councillor or officer of another organisation then the indemnity shall only apply where the Councillor or Officer was, at the time of the act or failure to act, a councillor or officer of that organisation as a result of:
- 3.4.1. their appointment by the Council; or
  - 3.4.2. their nomination to that organisation by the Council, or
  - 3.4.3. the Council formally accepting an invitation for a Councillor and/ or Officer to be appointed to that organisation,
- and in all such cases that organisation has not itself secured adequate insurance for the benefit of the Councillor or Officer that is available to and would cover the Councillor or Officer for the act or failure to act.

#### **4. Exclusions**

- 4.1. These indemnities will not include loss or damage directly or indirectly caused by or arising from:
- 4.1.1. any criminal offence (to the extent as provided for in paragraph 3.3 above), fraud or other deliberate wrongdoing or recklessness by the Councillor or Officer; and/or
  - 4.1.2. any act or failure to act by the Councillor or Officer otherwise than in their capacity as a Councillor or Officer (save where the Councillor or Officer is acting for another organisation as provided for in paragraph 3.4 above); and/or
  - 4.1.3. any motor vehicle claim in which an Officer or Councillor has used their own private vehicle on the Council's business; and/or
  - 4.1.4. an Officer defending or resisting any potential or actual disciplinary action taken by the Council against that Officer; and/or
  - 4.1.5. failure by the Councillor to comply with the Council's Code of Conduct for Councillors.

#### **5. Terms**

- 5.1. These indemnities will not apply if a Councillor or Officer, without the express permission of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim.
- 5.2. In the event that a Councillor or Officer is threatened with civil or criminal proceedings, the Councillor or Officer must as soon as reasonably practicable inform the Head of Paid Service and the Monitoring Officer and follow such reasonable instructions as may be given.
- 5.3. These indemnities shall not extend to any challenge or other claim against any decision of the Section 151 Officer and/or Monitoring Officer and/or the Council and/or the Council's insurers made pursuant to the provisions of these indemnities.

- 5.4. The indemnity will not automatically apply to any appeal or other challenge against the outcome of any claim or other proceedings unless in the opinion of the Monitoring Officer any such appeal or other challenge has a reasonable chance of success.
- 5.5. Where the Council arranges insurance to cover its liability under these indemnities references to the Council in these indemnities shall where appropriate include references to its insurer.
- 5.6. The Council or its insurers will be entitled to take over and conduct in the name of the Officer or Councillor the defence of any claim or other proceedings brought against the Officer or Councillor.
- 5.7. The Council undertakes not to sue (or join in action as co-defendant) an Officer or Councillor in respect of any negligent act or failure to act by the Officer or Councillor in their capacity as an Officer or Councillor subject to the following exceptions:
  - 5.7.1. any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Officer or Councillor; or
  - 5.7.2. any act or failure by the Officer or Councillor otherwise than in their capacity as an Officer or Councillor of the Council (other than an act and/or failure to act where the Councillor or Officer was acting for another organisation as provided for in paragraph 3.4 above).
- 5.8. The above indemnities and undertaking shall be without prejudice to the right of the Council:
  - 5.8.1. to take action against the Councillor for a breach of the Code of Conduct for Councillors or the breach of any other locally adopted protocol or policy; or
  - 5.8.2. to take disciplinary action against an Officer in respect of any neglect, act, error or omission.

## **6. Co-opted Councillor**

- 6.1. The above indemnities and undertakings may be extended to apply to any co-opted Councillor on a case-by-case basis if the Council so determines.

This page is intentionally left blank

# PART 4

## PROCEDURE RULES

## PART 4A

# ACCESS TO INFORMATION PROCEDURE RULES

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

### **1. Interpretation**

1.1. In these Procedure Rules:

- 1.1.1. references to 'the Council' means 'Full Council', unless otherwise stated;
- 1.1.2. references to 'committees' includes 'committees and boards' unless otherwise stated;
- 1.1.3. references to 'sub-committees' includes 'sub-committees, working groups, panels and forums' unless otherwise stated;
- 1.1.4. references to the serving of notice to 'Monitoring Officer' shall, unless otherwise stated, include notice to 'Democratic Services'; and
- 1.1.5. references to 'Rules' means these Procedure Rules, unless otherwise stated.
- 1.1.6. unless otherwise required by law, references to 'copies of documents being made available for for public inspection' means the publication online or sent electronically upon request.

### **2. Scope**

These Rules apply to all meetings of the Council, its Committees and Sub-Committees and to public meetings of the Cabinet (together referred to as "meetings").

### **3. Additional Rights to Information**

These Rules do not affect any other specific rights to information contained elsewhere in this Constitution or otherwise provided by law.

### **4. Rights to Attend and Report upon Meetings**

- 4.1. Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 4.2. Members of the press and public are also entitled to film, audio record and report on meetings of the Council, Committees and Cabinet, except in circumstances where the public have been excluded in accordance with this Constitution or as permitted by law. Any such filming, audio recording or reporting shall be in accordance with any guidelines published by the Council on its website or made available at the meeting.

### **5. Notice of Meetings**

The Council shall ordinarily give at least five clear working days' notice of any meeting by publicising a copy of the official notice on the Council's website and at the Council's main office.

## 6. Agenda and Supporting Papers - Rights of Access

- 6.1. The Council shall ordinarily make copies of the agenda and supporting papers for non-confidential business open to the public available for inspection on the Council's website, at least five clear working days before the meeting.
- 6.2. Where an item is added to an agenda at a later date and the report is open to the public, a revised agenda will ordinarily be made available for inspection, together with any supporting papers, as soon as possible.
- 6.3. The Council will as far as possible, supply to any member of the public on request (and subject to payment to the Council of a charge for postage and any other costs), copies of any agenda and reports which are open to public inspection, and if the Monitoring Officer thinks fit, copies of any further documents supplied to Councillors relating to that item.

## 7. Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting

- 7.1. The Council will make electronically available, for a period of six years from the date of the meeting:
  - 7.1.1. the minutes of the meeting where, under these Rules or the Constitution, minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - 7.1.2. the records of decisions taken, together with reasons by the Cabinet, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - 7.1.3. where information relating to a decision is not considered in public, a summary of the proceedings to provide a reasonably fair and coherent record, excluding any information which is of a confidential or exempt nature; and
  - 7.1.4. reports relating to items which were considered when the public were entitled to be present.

## 8. Background Documents

- 8.1. Background Documents are those documents which relate to the subject matter of the report which in the opinion of the Monitoring Officer:
  - 8.1.1. relate to the subject matter of the item in question;
  - 8.1.2. disclose any facts or matters on which the report or an important part of it has been based; and
  - 8.1.3. has been relied upon to a material extent in preparing the agenda item.



- 8.2. The requirements in Rule 8.1 of this Part 4A do not apply to or include any published works or any document in whole or in part which would disclose confidential or exempt information.
- 8.3. Background Documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made, including those made by an individual Councillor or Officer.

## **9. Definition of Confidential and Exempt Information**

### **9.1. Confidential Information**

Confidential Information means information supplied or given to the Council by a Government department on terms which forbid the disclosure of the information to the public or information which cannot be disclosed to the public by or under any enactment or by the order of a Court.

### **9.2. Exempt Information**

Exempt Information means information falling within the following categories (subject to any qualification listed at Rule 9.3 of this Part 4A):

- 9.2.1. information relating to any individual;
- 9.2.2. information which is likely to reveal the identity of an individual;
- 9.2.3. information relating to the financial or business affairs of any particular person (including the authority holding that information);
- 9.2.4. information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;
- 9.2.5. information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- 9.2.6. information which reveals that the authority proposes:
  - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) to make an order or direction under any enactment; and
- 9.2.7. information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **9.3. Exempt Information – Qualifications**

- 9.3.1. Information falling within the categories set out in Rule 9.2 of this Part 4A is not exempt information if it is required to be registered under:
  - a) the Companies Acts (as defined in Section 2 of the Companies Act 2006);

- b) the Friendly Societies Act 1974;
- c) the Friendly Societies Act 1992;
- d) the Co-operative and Community Benefit Societies Act 2014;
- e) the Building Societies Act 1986; or
- f) the Charities Act 2011.

9.3.2. Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

9.3.3. Information which:

- a) falls within any of the descriptions referred to in Rule 9.2 of this Part 4A; and
- b) is not prevented from being exempt by the previous two qualifications is exempt information if having considered all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **10. Exclusion of the Public from Meetings**

### **10.1. Confidential Information – Requirement to Exclude**

The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that Confidential Information, as described in Rule 9.1 of this Part 4A will be disclosed.

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

The public may be excluded from a meeting where it is likely that Exempt Information will be disclosed, as described in Rule 9.2 of this Part 4A.

## **11. No public right of access to agenda papers**

The Monitoring Officer, where they consider it necessary, may refuse access by the public to any agenda or supporting papers which in their opinion relate to items during which, in accordance with Rule 7 above, the meeting is likely not to be open to the public. Any such papers will be clearly marked “Not for Publication” and will contain the category of information to be disclosed as set out in Rule 9.2 of this Part 4A. Similar provisions apply to the disclosures of documents related to decisions of the Council, including the Cabinet.

## **12. Application of these Rules to the Cabinet**

Rules 13 to 22 of this Part 4A will apply only to the Cabinet and any Committees or Sub-Committees which it may establish from time to time.

## **13. Procedure before taking a Key Decision**

13.1. Subject to Rule 15 (General Exception) or Rule 16 (Special Urgency) of this Part 4A, a Key Decision cannot be taken unless:

- 13.1.1. a notice ("the Forward Plan") has been published in connection with the matter in question and made available to the public;
- 13.1.2. at least 28 clear calendar days have elapsed since publication of the Forward Plan; and
- 13.1.3. where the decision is to be taken at a meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, public notice of the meeting has been given under Rule 5 above.

## **14. The Forward Plan**

14.1. The Forward Plan will be prepared on behalf of the Leader on a monthly basis to cover the 12-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the 12-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case Rule 15 (General Exception) or Rule 16 (Special Urgency) of this Part 4A will apply.

14.2. The Forward Plan will contain such matters as the Leader has reason to believe will be Key Decisions to be taken by the Leader, the Cabinet, a Portfolio Holder, a Committee or Sub-Committee of the Cabinet, an Officer in the course of the discharge of a Cabinet function during the period covered by the Forward Plan.

14.3. The Forward Plan will describe in respect of each matter, the following particulars:

- 14.3.1. the matter relating to the decision to be made;
- 14.3.2. the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
- 14.3.3. the date on which, or the period within which, the decision will be taken;
- 14.3.4. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- 14.3.5. the means by which any such consultation is proposed to be undertaken;

- 14.3.6. the steps any person might take to make representations to the Cabinet or decision taker about the matter before the decision is made, and the date by which those steps must be taken;
  - 14.3.7. a list of the documents to be submitted to the decision taker for consideration in relation to the matter;
  - 14.3.8. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
  - 14.3.9. that other documents relevant to the matter may be submitted to the decision taker; and
  - 14.3.10. the procedure for requesting details of those documents (if any) as they become available.
- 14.4. Where in relation to any matter where the public may be excluded from a public meeting under Rule 10 of this Part 4A, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the matter, but may not contain any Confidential Information or Exempt Information.

## **15. General Exception for Key Decisions**

- 15.1. If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 16 (Special Urgency) of this Part 4A, the decision may still be taken if the following apply:
- 15.1.1. the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
  - 15.1.2. the Monitoring Officer has informed by way of Notice in writing the Chair of the Overview and Scrutiny Board, or if there is no such person, each member of that Board of the matter to which the decision is to be made;
  - 15.1.3. the Monitoring Officer has made copies of that Notice available to the public; and
  - 15.1.4. at least five clear working days have elapsed since the Monitoring Officer complied with their obligations under this paragraph.
- 15.2. Where such a decision is taken by the Cabinet, it must be taken in public subject to any requirements relating to the disclosure of Confidential or Exempt Information and the exclusion of the public.

## **16. Special Urgency for Key Decisions**

- 16.1. If by virtue of the date by which a Key Decision must be taken, the requirements of Rule 15 (General Exception) of this Part 4A cannot be followed, then the decision can only be taken if the decision taker (in the case of an individual) or the Chair of the body taking the decision, obtains the

agreement of the Chair of the Overview and Scrutiny Board that the taking of the decision cannot be reasonably deferred.

- 16.2. If there is no Chair of the Overview and Scrutiny Board or if they are unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair of the Council will suffice.
- 16.3. In addition to the requirement to agree to the matter being dealt with as urgent business, the Chair of the Overview and Scrutiny Board, or the Chair or Vice-Chair of the Council if applicable, will be consulted on the subject matter of the decision itself and may comment on the proposed decision to be taken.

## **17. Report to Council**

- 17.1. If the Overview and Scrutiny Board is of the opinion that a Key Decision has been taken which was not:

- 17.1.1. included in the Forward Plan;
- 17.1.2. the subject of the General Exception procedure under Rule 15 of this Part 4A;
- 17.1.3. the subject of an agreement with the Overview and Scrutiny Board Chair, or the Chair/Vice-Chair of the Council under Rule 16 of this Part 4A,

the Board may require the Cabinet to submit a report to Full Council within such reasonable time as the Board specifies.

- 17.2. In response to any requirement under Rule 17.1 of this Part 4A, the Cabinet must prepare a report for submission to the next available meeting of Full Council. However, if the next meeting of the Council is within 7 days of the resolution of the Board, then the report may be submitted to the subsequent meeting. The report to the Council must set out particulars of the decision, the individual or body taking the decision, and if the Cabinet is of the opinion that it was not a Key Decision, the reasons for that opinion.

## **18. Record of Decisions of the Cabinet**

- 18.1. After any meeting of the Cabinet or any of its Committees or Sub-Committees, whether held in public or private, the Monitoring Officer or their nominee, or, where no officer was present, the person presiding at the meeting, will produce as soon as practicable an electronic record of every decision taken at that meeting. The record will include the following:

- 18.1.1. a record of the decision including the date it was made;
- 18.1.2. a record of the reasons for the decision;
- 18.1.3. details of any alternative options considered and rejected by the decision taker;
- 18.1.4. a record of any conflict of interest relating to the matter decided which is declared by any member of the body making the decision; and

- 18.1.5. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

## **19. Cabinet Meetings relating to matters which are not Key Decisions**

The Cabinet will decide whether meetings relating to matters which are not Key Decisions will be held in public or private.

## **20. Meeting of the Cabinet in Private**

- 20.1. Where a meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, is to be held in private under these Rules, at least 28 clear days before the meeting, the Cabinet shall make available at the Main Office of the Council a notice of its intention to hold a meeting in private giving reasons as to why the meeting is to be held in private.
- 20.2. At least five clear days before the meeting, the Cabinet must make available at the Main Office of the Council a further notice of its intention to hold a meeting in private containing: the reasons as to why the meeting is to be held in private; details any representations received by the Cabinet about why the meeting should be open to the public; and a statement of the Cabinet's response to any such representations.
- 20.3. All members of the Cabinet shall be entitled to be given five clear working days' notice of the meeting, whether or not they are summoned to attend, unless the meeting is convened at shorter notice on urgency grounds.
- 20.4. Copies of the notices required by Rule 20.1 and Rule 20.2 of this Part 4A shall be sent to the Chair of the Overview and Scrutiny Board.
- 20.5. Where the date by which a private meeting must be held makes compliance with Rules 17.1 and 17.2 of this Part 4A impracticable, the meeting may only be held in private where the Cabinet has obtained agreement from:
- 20.5.1. the Chair of the Overview and Scrutiny Board; or
  - 20.5.2. if there is no such person, or if the Chair of the Overview and Scrutiny Board is unable to act, the Chair of the Council; or
  - 20.5.3. where there is no Chair of either the Overview and Scrutiny Board or of the Council able to act, the Vice-Chair of the Council,
- that the meeting is urgent and cannot reasonably be deferred.

## **21. Attendance at private meetings of the Cabinet**

### **Cabinet Members**

- 21.1. Any member of the Cabinet may attend a private meeting of a Committee or Sub-Committee of the Cabinet whether or not they are members of that body unless the body determines otherwise.

- 21.2. Any Cabinet member who is not a member of such a Committee or Sub-Committee shall be entitled to speak with the consent of the person presiding but not to vote.

## **Officers**

- 21.3. The Head of the Paid Service, the Section 151 Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Cabinet. The Cabinet cannot meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to Committees and Sub-Committees of the Cabinet.
- 21.4. A private meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, may only take place in the presence of the Monitoring Officer or their nominee, who shall have responsibility for recording and publicising any decisions.

## **22. Decisions by Portfolio Holders**

- 22.1. Decisions made by individual Portfolio Holders must be taken in accordance with the procedure established by the Monitoring Officer which will provide for a written report template to be prepared by the relevant officer, and formal sign off by the Monitoring Officer and Section 151 Officer before the decision is made.
- 22.2. As soon as reasonably practicable after an executive decision has been taken by a Portfolio Holder, the written record of the decision must be published which should include the following:
- 22.2.1. the decision made including the date it was made;
  - 22.2.2. the reasons for the decision;
  - 22.2.3. details of any alternative options considered and rejected by the Portfolio Holder making the decision;
  - 22.2.4. a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet who is consulted by the Portfolio Holder which relates to the decision;
  - 22.2.5. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer;
  - 22.2.6. the financial and legal implications of the decision and confirmation that the decision has been considered by the Section 151 Officer and Monitoring Officer; and
  - 22.2.7. the consultation undertaken prior to the decision being made, including any consideration by the relevant Overview & Scrutiny Committee and Ward Councillors.
- 22.3. The provisions of Rules 7 (Access to Decision Records) and 8 (Background Documents) of this Part 4A will also apply to the making of decisions by Portfolio Holders. This does not require the disclosure of Exempt or Confidential Information or advice from a political assistant.

## **23. Record of Executive and Non-Executive decisions taken by Officers**

- 23.1. As soon as reasonably practicable after an Officer has made a decision which is an Executive Decision a written record of the decision will be published which will include the following:
  - 23.1.1. the decision made and the date it was made;
  - 23.1.2. a record of the reasons for the decision;
  - 23.1.3. details of any alternative options considered and rejected by the Officer when making the decision;
  - 23.1.4. a record of any conflict of interest declared by any Cabinet member who is consulted by the Officer which relates to the decision;
  - 23.1.5. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer;
  - 23.1.6. the financial and legal implications of the decision and confirmation that the decision has been considered by the Section 151 Officer and Monitoring Officer; and
  - 23.1.7. the consultation undertaken prior to the decision being made, including any consideration by the relevant Overview & Scrutiny Committee and Ward Councillors.
- 23.2. Any record prepared in accordance with Rule 23.1 of this Part 4A and any report considered by the Officer and relevant to the decision will be available for public inspection on the Council's website.
- 23.3. Rules 23.1 to 23.2 of this Part 4A apply to Major Operational Decisions made by Officers as defined by Article 12 of the Constitution. These rules do not apply to day to day administrative or operational decisions taken by Officers in connection with the discharge of functions.
- 23.4. When an Officer makes a Major Operational Decision the Monitoring Officer must be provided with a completed Delegated Record of Decision within two working days of the date of taking the decision together with a copy of any report upon which the decision was made.
- 23.5. The Monitoring Officer will keep a record of all such decisions made by Officers including any report upon which each decision was made and will ensure that the decision is recorded and published by the Council on its website.
- 23.6. As soon as reasonably practicable after an Officer has made a decision under an express delegation from Full Council, its Committees, Sub Committees or any Joint Committee in which the Council is involved or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Council's position, a written statement will be prepared including:
  - 23.6.1. a record of the decision including the date it was made;



- 23.6.2. a record of the reasons for the decision;
  - 23.6.3. details of any alternative options considered and rejected by the Officer when making the decision; and
  - 23.6.4. a record of the name of any Councillor or local government body who has declared an interest (for decisions taken under an express delegation).
- 23.7. Any record prepared in accordance with Rule 23.6 of this Part 4A together with any background papers considered by the Officer and relevant to the decision will be available for public inspection on the Council's website.
- 23.8. Rules 23.6 to 23.7 of this Part 4A do not apply to:
- 23.8.1. routine administrative and organisational decisions;
  - 23.8.2. decisions on operational matters such as day to day variations in services;
  - 23.8.3. decisions if the whole or part of the record contains Confidential or Exempt Information; or
  - 23.8.4. decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

## **24. Access to documents - Overview and Scrutiny Board and Committees**

### **Right to Copies of Documents**

- 24.1. Subject to Rule 24.3 of this Part 4A, any member of the Overview and Scrutiny Board or Committees is entitled to copies of any document which is in the possession or control of the Leader, the Cabinet including its Committees and Sub-Committees, and which contains material relating to:
- 24.1.1. any business transacted at a public or private meeting of the Cabinet including any of its Committees and Sub-Committees;
  - 24.1.2. any decision taken by an individual member of the Cabinet; or
  - 24.1.3. any executive decision taken by an Officer in accordance with Part 3 of this Constitution.
- 24.2. Where a member of an Overview and Scrutiny Board or Committee (including its Sub-Committees) requests a document which falls within Rule 24.1 of this Part 4A the Leader must provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the Leader receives the request.
- 24.3. Subject to Rule 24.4 of this Part 4A the Chair, or in the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Board is entitled to see papers in relation to private decisions of the Cabinet before the decision is made.

- 24.4. Overview and Scrutiny Committee members will be entitled to any such document or part of a document that contains Exempt or Confidential Information unless the Monitoring Officer determines that the information is not relevant to an action or decision they are reviewing or scrutinising or any review contained in any programme of work of the Overview and Scrutiny Board or Committees.

### **Limits on Right to Copies**

- 24.5. Where the Leader so determines, a member of the Overview and Scrutiny Board or Committees will not be entitled to:

24.5.1. any document that is in draft form; or

24.5.2. the advice of a political advisor.

- 24.6. Where the Leader or Monitoring Officer determines that a member of the Overview and Scrutiny Board or Committees is not entitled to a copy of a document or part of any such document, under Rule 24.4 and Rule 24.1 of this Part 4A, the Leader or Monitoring Officer as applicable must provide the Overview and Scrutiny Board or relevant Committee with a written statement setting out their reasons for that decision.

## **25. Additional rights of access for Councillors**

- 25.1. All Councillors will be entitled to inspect any document which is in the possession or under the control of the Leader and/or the Cabinet, including its Committees or Sub-Committees, and contains material relating to:

25.1.1. any business to be transacted at a public meeting;

25.1.2. any business previously transacted at a private meeting;

25.1.3. any decision made by a Portfolio Holder; or

25.1.4. an Executive decision by an Officer;

unless in the opinion of the Monitoring Officer it contains Confidential or Exempt Information or it contains the advice of a political advisor.

- 25.2. All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Cabinet including its Committees and Sub-Committees which relates to any Key Decision unless Rule 24.4 of this Part 4A applies.

- 25.3. In relation to public meetings, where a document is required to be available for inspection by all Councillors under Rule 25.1 of this Part 4A it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.

- 25.4. In relation to private meetings, decisions made by a Portfolio Holder or Executive decisions made by an Officer, where a document is required to be available for inspection by all Councillors under Rule 25.1 of this Part 4A it must be available within 24 hours of the meeting concluding or where an Executive decision is made by a Portfolio Holder or Officer within 24 hours of the decision being made.
- 25.5. These rights are in addition to any other rights to access information provided by law the Councillors may have.

## PART 4B

# CABINET PROCEDURE RULES

## **B. Cabinet Procedure Rules**

### **1. The Cabinet**

The Cabinet consists of the Leader of the Council and up to 9 other Councillors appointed by the Leader, not being the Chair or Vice-Chair of the Council.

### **2. Application of the Cabinet Procedure Rules**

These procedure rules shall apply to the exercise of all Cabinet decisions whether taken collectively or individually.

### **3. Frequency of Cabinet Meetings**

The Cabinet will meet as indicated in the Council's Programme of Meetings. The Cabinet or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/they see fit. Locations of meetings will be published in the Calendar of Meetings.

### **4. Public and Private Cabinet Meetings**

- 4.1. The Cabinet may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules set out at Part 4A in this Constitution.
- 4.2. Attendance by other Councillors and the public shall be in accordance with the Access to Information Procedure Rules set out at Part 4A in this Constitution, by invitation under Rule 4.3 of this Part 4B, or as set out Rule 7 of this Part 4B.
- 4.3. The Cabinet may invite any person considered appropriate to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to Confidential and/or Exempt Information on terms to be decided by the Monitoring Officer so as to ensure that the Access to Information Procedure Rules are observed.

### **5. Quorum at Cabinet Meetings**

The quorum for meetings of the Cabinet is as set out in the Meeting Procedure Rules at Part 4D of this Constitution.

### **6. Decision Making Process**

- 6.1. Cabinet decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Access to Information Procedure Rules set out at Part 4A in this Constitution,
- 6.2. Cabinet decisions shall not be implemented where the right of Call-In has been exercised until that Call-In process has been concluded, unless the urgency procedure set out at Rule 14 of Part 4C of this Constitution applies.
- 6.3. Records of Cabinet decisions must be confirmed at the next meeting.

- 6.4. In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice from its service, legal and financial advisers who shall be present at any meeting where a decision is being taken and that advice is taken into consideration in determining the matter. Where there is any doubt about whether the Cabinet has the legal power to make the decision or an issue of probity arises then advice must be obtained from the Monitoring Officer and the Section 151 Officer.

## **7. Conduct of Cabinet Meetings**

### **Chair of Cabinet Meetings**

- 7.1. The Leader will chair meetings of the Cabinet or in their absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the members present, may appoint one member of the Cabinet to preside.

### **Councillors attending and speaking at Cabinet Meetings**

- 7.2. The Chair of the Overview and Scrutiny Board shall be entitled to attend any formal public meeting of the Cabinet and to speak to any matter on the agenda for that meeting.
- 7.3. Other Councillors not previously described above may also speak at such meetings with the permission of the Leader or person presiding in their absence.

### **Business to be conducted**

- 7.4. The business to be transacted at meetings of the Cabinet will be set out in an agenda for the meeting in question, subject to any requirements or exemptions under the Access to Information Procedure Rules set out at Part 4A of this Constitution.
- 7.5. The Cabinet will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 7.6. The Cabinet is obliged to consider matters referred to it by the Overview and Scrutiny Board or Committees, or by the Full Council for consideration under the Overview and Scrutiny Procedure Rules set out at Part 4C of this Constitution.
- 7.7. The Access to Information Procedure Rules set out at Part 4A of this Constitution will apply to notice of meetings, agendas, and access to reports and background papers. Where matters are for decision, the agenda must stipulate those which are Key Decisions and those which are not, in accordance with the Access to Information Procedure Rules.

### **Agenda**

- 7.8. The agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of Confidential or Exempt Information.

- 7.9. The Monitoring Officer or their nominated representative shall be responsible for preparing and distributing the Agenda for Cabinet meetings, attending meetings for the purpose of advising the Cabinet on matters within their area of responsibility and recording decisions as required under this Constitution.
- 7.10. Any member of the Cabinet may require the Monitoring Officer to place an item on the agenda for a stipulated meeting of the Cabinet.
- 7.11. The Monitoring Officer will ensure that any matters referred to the Cabinet by Full Council or the Council's Overview and Scrutiny Board or Committees are placed on the agenda for the next appropriate meeting of the Cabinet.
- 7.12. The Chief Executive, the Monitoring Officer and/or the Section 151 Officer can include an item for consideration on the agenda of a Cabinet Meeting. In pursuance of their statutory duties they can require that a Special Meeting of the Cabinet be convened.
- 7.13. Business cannot be conducted at formal meetings of the Cabinet unless it is included in the agenda for the meeting. Where it is urgent, the requirements of the Access to Information Procedure Rules set out at Part 4A of this Constitution must be complied with.

### **Questions**

- 7.14. Questions, statements and petitions can be submitted by members of the public at meetings of the Cabinet in accordance with Rule 12 of Part 4D of this Constitution.

### **Key Decisions**

- 7.15. The Cabinet will report to the Council as required under the Access to Information Procedure Rules set out at Part 4A of this Constitution on any matter which is classified as a Key Decision and is dealt with under special urgency procedures.

## **8. Voting at Cabinet Meetings**

- 8.1. Voting at Cabinet meetings will be by a show of hands.
- 8.2. Any member may require, immediately after the vote is taken, that the record of decision of the meeting record how they voted or abstained.
- 8.3. Where there are equal votes cast, the Leader, or in their absence, the person presiding, will have a second and casting vote.
- 8.4. Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be by secret ballot conducted in accordance with Rule 18 of Part 4D of this Constitution.

## **9. Cabinet Committees/Sub-Committees**

- 9.1. The Cabinet may appoint such Committees or Sub-Committees as it considers necessary and appropriate to assist in the discharge of its functions.

- 9.2. In making such appointments, the Cabinet must specify the name of the Committee/Sub-Committee, its membership (including its Chair and, if appropriate, Vice-Chair) and the terms of reference of the body.

## **10. Motion under Procedure Rule 9 of Part 4D**

A mover of a motion under Procedure Rule 9 of Part 4D of this Constitution which has been referred to the Cabinet for consideration must attend the meeting of the Cabinet when their motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and they will be sent a copy of the relevant papers.

## **11. Resolving disputes**

In the case of any dispute during the proceedings of the Cabinet the relevant parts of this Constitution will apply and after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and their ruling will be final.

## **12. Reserves/substitute members**

There shall be no reserve or substitute members of the Cabinet.

## **13. Conflicts of Interest**

- 13.1. Where the Leader or any Cabinet member has a conflict of interest, they will follow the requirements of the Council's Code of Conduct for Councillors.
- 13.2. If all (or a majority) of the members of the Cabinet present have a conflict of interest then consideration will be given to applying to the Monitoring Officer for a dispensation from the provisions of the Council's Code of Conduct for Councillors.
- 13.3. If the discharge of a Cabinet function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest then action set out in Rule 13.2 of this Part 4B shall be considered.



## PART 4C

# OVERVIEW AND SCRUTINY PROCEDURE RULES

## **C. Overview and Scrutiny Procedure Rules**

### **1. How Overview and Scrutiny operates**

- 1.1. Any Procedure Rule applying to a Committee shall also apply to the Overview and Scrutiny Board.
- 1.2. The Board and Committees will perform the functions as set out in Article 6 at Part 2 of this Constitution.
- 1.3. No Councillor may be involved in scrutinising a decision in which they have been directly involved. Where the relevant Overview and Scrutiny Committee has been engaged as part of the decision-making process of a decision subject to Call-In the Monitoring Officer shall have discretion to refer the consideration of the Call-In to another Overview and Scrutiny Committee.

### **2. Overview & Scrutiny Work Plan/s**

- 2.1. The proposed work of the Overview and Scrutiny Committees will be set out in a Work Plan which shall consist of work aligned to the principles for the function, as set out in this Constitution.
- 2.2. Once any Work Plan has been approved, a copy will be published with the agenda for each meeting of the Overview and Scrutiny Committees and available to any Councillor on request.
- 2.3. The Overview and Scrutiny Board will maintain oversight of all Work Plans relating to the Overview and Scrutiny function. The purpose of this oversight is to ensure a balance of resource is available across the function and all overview and scrutiny work is adding value to the Council as a whole. The Overview and Scrutiny Board may comment on or make recommendations in relation to the Work Plans of other Overview and Scrutiny Committees as it sees appropriate.

### **3. Consultation and Suggestions**

- 3.1. The Overview and Scrutiny Committees will consult with other parts of the Council as appropriate, including the Cabinet, on the preparation of any Work Plan. They should also take into account the resources, including Councillor availability, Officer and financial resources, available to support their proposals.
- 3.2. The Overview and Scrutiny Committees may take suggestions from a variety of sources to form their Work Plans. This may include suggestions from members of the public, Officers of the Council, Portfolio Holders, the Cabinet and Council, members of the Committee, and other Councillors who are not on the Committee.
- 3.3. All suggestions for Overview and Scrutiny work will be accompanied by:
  - 3.3.1. detail outlining the background to the issue suggested;
  - 3.3.2. the proposed method of undertaking the work;

- 3.3.3. likely timescale associated with undertaking the work; and
- 3.3.4. the anticipated outcome and value to be added by the work proposed.
- 3.3.5. No item of work shall join the work plan of any Overview and Scrutiny Committee without an assessment of this information.
- 3.4. Members of the public may make suggestions for Overview and Scrutiny work. Suggestions will be made in writing and accompanied by the detail outlined at Rule 3.3 of this Part 4C.
- 3.5. A facility will be made for members of the public to make suggestions for overview and scrutiny work on the Council's website. Suggestions will be considered by the relevant Overview and Scrutiny Committee. The Overview and Scrutiny Committees will maintain oversight of suggestions made by the public and will assess the value to be added by the work suggested when determining whether to exercise their powers in this respect. Any member of the public raising an item under this Rule shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

## **4. Requests**

- 4.1. Where Portfolio Holders, the Cabinet or Council request that Overview and Scrutiny Committees undertake a specified piece of work, the relevant Overview and Scrutiny Committee shall respond to the request as soon as it is possible to do so.
- 4.2. The Committee will assess the value to be added by the work suggested when determining whether to exercise its powers in this respect. Where it chooses to exercise its powers in relation to the request, it will report back its findings and any recommendations to Cabinet and/or Full Council in accordance with Rule 11 of this Part 4C.
- 4.3. Where the Committee chooses not to exercise its powers in relation the request, it will provide reasons for this to the body that made the original request.
- 4.4. All Councillors have the right to suggest that an item be considered for Overview and Scrutiny provided that the item to which the suggestion is made must be relevant to the functions of the Overview and Scrutiny Committee. Councillors must make this suggestion in writing to the Scrutiny Officer who will arrange for the publication of the request on the next available agenda of the relevant Overview and Scrutiny Committee agenda. The request will be accompanied by the information as set out at 3.3 above. The Overview and Scrutiny Committee shall consider the request, assess the value to be added by the work proposed and determine whether the matter shall join the Work Plan. Where a decision is made by the Committee not to exercise its powers in relation to the matter the Committee must provide its decision to the Councillor making the request, giving reasons for this.

- 4.5. Any Councillor raising an item under Rule 4.4 of this Part 4C shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

## **5. Crime and Disorder Issues**

The Overview and Scrutiny Board shall undertake Overview and Scrutiny of Crime and Disorder issues, as required by legislation, at least once a year.

## **6. Engagement with the Overview and Scrutiny Committee**

- 6.1. Consideration will be given at the scoping stage as to how others, in addition to Councillors and Officers of the Council, may be engaged in the work of Overview and Scrutiny and the benefit that this engagement will bring to the work. This may include, but is not limited to, contribution from subject experts with relevant specialist knowledge and/or expertise; representatives of stakeholder groups and service users.
- 6.2. Overview and Scrutiny has a key role in the development of the Budget and Policies of the Council. The Overview and Scrutiny Committees may make proposals to the Cabinet or Full Council for development or review of key strategies, plans and policies to the extent that they relate to matters within the respective terms of reference for each Committee.

## **7. Commissioned Work**

- 7.1. When considering additions to its Work Plan, the Overview and Scrutiny Committees may commission work to be undertaken outside of Committee meetings in accordance with Article 6 at Part 2 of this Constitution.
- 7.2. When commissioning work, the Committees will take into account the availability of resources as highlighted above.
- 7.3. Bodies commissioned by the Overview and Scrutiny Committees may have conferred upon them the power to act on behalf of the parent Committee in considering issues within the remit of the parent Committee and making recommendations directly to Portfolio Holders, Cabinet, Council or other bodies or people within the Council or externally as appropriate.

## **8. Rights of Overview and Scrutiny Committee members to information**

- 8.1. The Overview and Scrutiny Committee will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation.
- 8.2. In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules set out at Part 4A of this Constitution.

- 8.3. Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committees as appropriate. Regular, informal dialogue between the two is considered good practice to ensure that the Overview and Scrutiny function can understand developing Cabinet priorities, discuss and assess the value that Overview and Scrutiny can provide and contribute in a timely way to policy development.

## **9. Councillors and Officers giving account**

- 9.1. The Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or matters which affect the Council's area or the inhabitants of that area. As well as reviewing documentation, in fulfilling its scrutiny role, it may require the Leader, any Portfolio Holder or Officer to attend before it to provide information in relation to matters within their remit. It is the duty of those persons to attend if so required.
- 9.2. Where any Councillor or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Scrutiny Officer, who will inform the Councillor or Officer in writing giving at least seven clear working days' notice of the meeting. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Councillor or Officer concerned will be given reasonable notice to allow for its preparation.
- 9.3. Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Committee shall consider, in consultation with the Councillor or Officer, an alternative date for attendance or whether another officer should attend in their place.
- 9.4. Officers should not be expected to enter, and should avoid being drawn into, discussions of politically contentious matters and any Officer input should be consistent with the requirements for political impartiality.
- 9.5. The requirements of any protocols on Councillor/Officer relationships and the Code of Conduct must be adhered to where an Officer is attending an Overview and Scrutiny Committee.

## **10. Attendance by others**

- 10.1. With reasonable notice, the Overview and Scrutiny Committees may invite individuals other than those referred to in Rule 9 of this Part 4C to address it, to discuss issues of local concern and/or answer questions.
- 10.2. Where the Overview and Scrutiny Committees conduct investigations (for example with a view to policy development), the Committee may ask individuals to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:

- 10.2.1. the investigation is to be conducted fairly and all members of the Committee will be given the opportunity to ask questions of attendees, and to contribute and speak;
- 10.2.2. those assisting the Committee by giving evidence will be treated with respect and courtesy; and
- 10.2.3. the investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

## **11. Reports from the Overview and Scrutiny Committee**

- 11.1. The Overview and Scrutiny Committees will report on findings of their work to Cabinet and Full Council, as appropriate according to the matter under review and recommendations being made.
- 11.2. Once recommendations have been formed, the Overview and Scrutiny Committee will submit a formal report for consideration by the Cabinet, or where the Leader has delegated decision-making to a Portfolio Holder, the Portfolio Holder (if the proposals relate to an Executive Function and are consistent with the existing Budget and Policy Framework); or to Full Council as appropriate (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 11.3. Where recommendations have been submitted, Full Council or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months (or the next available meeting in the case of the Council). A response will be provided to the Overview and Scrutiny Committee indicating what action, if any, the Cabinet or Full Council proposes to take.
- 11.4. Where the Overview and Scrutiny Committee submits recommendations for consideration by a Portfolio Holder, the Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it indicating what action, if any, the Portfolio Holder proposes to take. The Portfolio Holder must also attend a future meeting of the Overview and Scrutiny Committee to present their response.

## **12. Where the Decision Maker is an External, non-Council Organisation**

- 12.1. Where that organisation has a statutory duty to respond to the Committee, a written response shall be requested within the timescale required or, if mutually agreed, by another set deadline so the response can be placed on the agenda of the next scheduled meeting of the Committee, if appropriate.
- 12.2. Where that organisation does not have a statutory duty to respond to the Committee, a written response shall be invited within 2 months.
- 12.3. Where scrutiny is being undertaken in relation to the Council's statutory Health or Crime and Disorder Scrutiny functions this will be done in accordance with the relevant legislation and statutory guidance.

### **13. Joint Committees**

Joint Overview and Scrutiny Committees may be established with other councils to provide for effective Overview and Scrutiny of a particular matter. This includes making provision for joint Overview and Scrutiny Committees relating to Health, and to Crime and Disorder, as permitted under legislation.

### **14. Call-In**

14.1. All requests for Call-In shall be considered by the Overview and Scrutiny Board.

14.2. Call-In is the exercise of Overview and Scrutiny's statutory power to review an Executive decision which has been made but not carried out. Call-In should only be used in exceptional circumstances. This Rule shall apply to a decision of the Cabinet, the Leader, Portfolio Holder or a Key Decision made by an Officer and there are reasonable grounds that one of the following is applicable:

14.2.1. the decision was not made in accordance with the principles of decision-making set out in Article 12 of this Constitution;

14.2.2. the decision was neither published in accordance with the requirements for the Cabinet Forward Plan and not subject to the 'general exception' or 'special urgency procedures' set out in this Constitution; or

14.2.3. the decision is not in accordance with the Key Policy Framework or Budget.

14.3. When a decision is made by the Cabinet, a member of the Cabinet, or a Committee or Sub-Committee of the Cabinet, or a Key Decision is made by an Officer with delegated authority from the Cabinet, the decision shall be published, by electronic means, and shall be made available for inspection normally within 2 clear working days of being made. All Councillors will be sent an electronic record of all such decisions within the same timescale.

14.4. Subject to any urgency provisions a decision taken and to which Rule 14.3 of this Part 4C refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made, recorded and published in accordance with Rule 14.3 of this Part 4C.

14.5. Where a decision referred to in Rule 14.3 of this Part 4C has been made, any three or more members of the Overview and Scrutiny Board, or alternatively 10 Councillors who are not members of the Cabinet, may submit a Call-In notice, in writing, within the period specified in Rule 14.4 of this Part 4C, to the Monitoring Officer or their nominated representative. Voting education members of an Overview and Scrutiny Committee may only sign a Call-In request when the matter relates to an education function. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. The Monitoring Officer will consider the Call-In request and confirm its validity or otherwise.

14.6. A valid Call-In request must comply with the following:

14.6.1. have the correct number of signatures; and

14.6.2. give reasons for the Call-In. The reasons must set out the grounds upon which the Call-In is based with reference to Rule 14.2 of this Part 4C and the evidence to support the grounds. Reasons must be legitimate and not designed to create an obstacle to or delay the proper transaction of business nor should they be vexatious, repetitive or improper in any other way.

14.7. Where, as a result of a corporate electronic system failure or planned shutdown, the issuing of or access to decisions is prevented; or the submission of a Call-In notice by electronic means in accordance with the Council's Call-In provisions is prevented, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours. When, in the opinion of the Monitoring Officer, the period of delay is likely to extend beyond two clear working days, they shall agree with the Chair of the Overview and Scrutiny Board, alternative arrangements to avoid any delay in implementing Cabinet decisions not subject to Call-In.

14.8. The decision subject to Call-In will be referred to the first available meeting of the relevant Overview and Scrutiny Board, or to a specially convened meeting of the Board should the Chair of the Board consider this to be appropriate in the circumstances.

14.9. The Board, having considered the matter, may decide to offer no advice and in which case the decision may be implemented immediately. Where advice is offered, the Cabinet will reconsider the decision in light of the advice of the Board.

14.10. Where a matter is considered and advice is offered by the Overview and Scrutiny Board, its advice will be submitted to the Cabinet for a decision to be made on the matter. The Cabinet shall consider the advice, but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming, with or without amendment, the original decision or deferment pending further consideration, or making a different decision. There are no further rights to enable a Councillor to submit a Call-In notice. The decision may then be implemented.

14.11. Once the Overview and Scrutiny Board has decided to offer advice or not to offer advice, no further Call-In notices may be served in respect of that matter subject to the decision in question. This does not prevent the matter being scrutinised further by an Overview and Scrutiny Committee after the decision has been implemented in accordance with these Rules.

14.12. A submitted Call-In notice can only be withdrawn with the written consent of sufficient of the signatories such as to reduce the number of signatories to below the relevant threshold set out in Rule 14.5 of this Part 4C.



14.13. The Call-In facility does not apply to the determination of a Motion under Procedure Rule 9 of Part 4D (Notices of Motion).

## **15. Call-In and Urgency**

15.1. The Call-In procedure set out above shall not apply where the decision being taken by the Cabinet, the Leader, Portfolio Holder or an Officer is urgent.

15.2. A decision will be urgent if any delay, caused by the Call-In process, would be likely to seriously prejudice the Council's or the public's interests.

15.3. The Chair of the Overview and Scrutiny Board or, in their absence, the Vice-Chair or in their absence the Chair of the Council must agree that the decision should be treated as urgent, and that the Call-In procedure should not apply.

15.4. In the absence of the Chair of the Council, the Vice-Chair's consent shall be required. In the absence of all of the above Councillors, the Chief Executive's, or their nominee's, consent shall be required.

## **16. Councillor Call for Action**

16.1. Any Councillor may submit a Councillor Call for Action.

16.2. The Councillor Call for Action is intended to be a process of last resort and therefore a Councillor must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Chief Executive.

16.3. The Councillor Call for Action will be placed on the next available agenda of the Overview and Scrutiny Board.

16.4. It is for the Overview and Scrutiny Board to determine how it wishes to respond to the Councillor Call for Action and, in the case of refusal to undertake a review, then reasons must be provided.

## **17. The Party Whip**

The use of the Party Whip is incompatible with the role of Overview and Scrutiny and shall not be used.

## **18. Procedure at Overview and Scrutiny Meetings**

18.1. Matters to be considered will be set out in an agenda, together with appropriate and relevant supporting papers.

18.2. The Overview and Scrutiny meeting shall consider the following business:

18.2.1. record of the last meeting;

18.2.2. declarations of interest;

18.2.3. public items;

- 18.2.4. consideration of any matter referred to the Committee by Full Council or by the Cabinet;
- 18.2.5. consideration of any matter referred to the Committee for advice in relation to Call-In of a decision;
- 18.2.6. responses of the Cabinet on reports of the Overview and Scrutiny meeting;
- 18.2.7. the business otherwise set out on the agenda for the meeting; and
- 18.2.8. the Overview and Scrutiny meeting's Work Plan, including requests for items of scrutiny from Councillors in accordance with the procedure set out in this Constitution.

ChairChair

## PART 4D

# MEETING PROCEDURE RULES

## D. Meeting Procedure Rules

### 1. Schedule of meetings

- 1.1. Full Council will determine the annual schedule of meetings for the Council, Cabinet, Committees and Sub-Committees, including the date, time and location. Where practicably possible, the month of August should be avoided when scheduling meetings, briefings, workshops, training and extraordinary meetings. There will be a general presumption against alterations to the date, time and venue for meetings.

- 1.2. An Extraordinary Meeting of the Council can be called by the Chair, or five Councillors can ask the Chair, in writing, to call an Extraordinary Meeting. If the Chair does not agree, then those Councillors can call the meeting by giving written notice to the Monitoring Officer. The Monitoring Officer, in consultation with the Chair, may also call an Extraordinary Meeting.

- 1.3. When it is necessary to alter the date, time and/or location of the Cabinet, a committee or sub-committee meeting, or to arrange a special meeting of the Cabinet, a committee or sub-committee, the Monitoring Officer or appropriate Democratic Services Officer will consult the Leader/Chair of the relevant Cabinet, Committee or Sub-Committee before any action is taken. The Leader/Chair of the Cabinet, Committee or Sub-Committee will then determine the matter.

### 2. Election of Chair and Vice-Chair

- 2.1. At the Annual Meeting, the Council will elect its Chair and Vice-Chair.

- 2.2. At the first meeting of a committee or sub-committee following the annual meeting of the Council, the committee or sub-committee will elect its Chair and Vice-Chair.

- 2.3. The Chair, or in their absence the Vice-Chair (who will have the same powers and duties as the Chair), will preside at meetings. Where both the Chair and Vice-Chair are absent, the meeting will appoint another Councillor, other than a member of the Cabinet, to chair the meeting, who will have the same powers and duties as the Chair.

- 2.4. The Chair of the relevant meeting for the preceding year, or in their absence the Vice-Chair, shall preside over the election of Chair. In the absence of both the preceding Chair and Vice-Chair for a committee or sub-committee, the Chair of the Council, or in their absence the Vice-Chair of the Council, shall preside over the election of Chair. Where both the Chair and Vice-Chair of the Council are absent, the membership shall agree, prior to the commencement of the formal meeting, another Councillor from the membership to preside over the election of Chair. The person presiding over the election of Chair shall be entitled to a casting vote in the event of an equality of votes.

### 3. Records of Attendance

The Monitoring Officer will keep a record of Councillors attending any meeting of the Council, the Cabinet, any Committee, or Sub-Committee.

### 4. Quorum

- 4.1. No business shall be dealt with at the Council meeting if there are fewer than one quarter of Councillors who are members of that body present at the meeting. Where the meeting has started, and the number of Councillors present is fewer than one quarter of the number of Councillors, the Chair will adjourn the meeting. Where the Chair does not give a date and/or time for the consideration of the remaining business, all business not completed will be considered at the next meeting.
- 4.2. The quorum of a meeting of the Council's Committees and Sub-Committees will be one third of the number of voting members or three voting members, whichever is the greater, except for the Cabinet which will be three to include the Leader or in their absence, the Deputy Leader. The quorum for the Childrens Services Overview and Scrutiny Committee shall be one third of members of the Committee excluding the voting co-optees.

Council

Cabinet,  
committees and  
sub-committees

### 5. Order of business

Business shall be dealt with in the order in which it is set out in the agenda unless the Chair or the meeting decides otherwise.

### 6. Urgent Business

- 6.1. Business cannot be dealt with at a meeting unless it is included in the agenda and made available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.
- 6.2. The Chair of the meeting may agree to deal with an item of business at the meeting if, in their opinion, the matter is urgent given the circumstances requiring a decision. The Chair's ruling and the reasons for urgency will be recorded in the minutes of the meeting.

Council,  
committees and  
sub-committees

### 7. Confirmation of Minutes

- 7.1. Minutes of the last meeting must be confirmed at the next ordinary meeting.
- 7.2. Only matters relating to the accuracy of the minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Chair shall sign the minutes.
- 7.3. The minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chair.

Cabinet,  
committees and  
sub-committees

- 7.4. Councillors may ask a question or comment on any minute. The Chair of the Sub-Committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.
- 7.5. Where a Councillor has a question or comment on an Exempt or Confidential minute, the question or comment must be given in writing to the Monitoring Officer or their nominee at least one hour before the start of the meeting.
- 7.6. Any question about the accuracy of any minute of a body must be considered and determined by that body at its next meeting.

Cabinet,  
committees and  
sub-committees

## **8. Matters for decision by the Council**

Council

- 8.1. All matters for decision by the Council (except any urgent items) shall be included with the Agenda.
- 8.2. When the item is reached on the Agenda, the Leader, the relevant Portfolio Holder or the Chair of the relevant Committee will, where appropriate, move the recommendation or advice of the Cabinet or Committee, or endorsement of a Cabinet or a Committee decision. Another Councillor may second the motion and may reserve the right to speak until later in the debate.
- 8.3. The Chair cannot ask the Council to agree to withdraw a recommendation of the Cabinet or a Committee unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Council.

## **9. Notices of Motion**

Council

- 9.1. A notice of motion must relate to matters for which the Council has responsibility or which affect its area.
- 9.2. The procedures and arrangements for submitting and dealing with notices of motion are as follows.

### **Procedure**

- 9.3. Notice of every motion (other than a motion which under Procedure Rule 10 of this Part 4D may be moved without notice) shall be given in writing, signed by the Councillors giving the notice, and delivered, at least seven clear working days before the next meeting of the Council, to the office of the Monitoring Officer by whom it shall be dated, in the order in which it is received. Such Notice can be provided electronically.

### **Motions to be set out in Agenda**

- 9.4. The agenda for every ordinary meeting of the Council will set out all motions of which notice has been duly given, unless the Councillor giving the notice has intimated in writing, when giving it, that they proposed to move it at some later meeting, or has since withdrawn it. The motions will be listed in the summons according to whether they relate to Cabinet or non-Cabinet functions but otherwise in the order in which they have been received.

## **Withdrawal of Motion which is before the Council**

- 9.5. Where a notice of motion is before the Council having been formally moved and seconded and the mover wishes subsequently to withdraw it, with the consent of the seconder, may do so in writing and with the consent of the Chair of the Council again in writing.

## **Motions not moved**

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

## **Dealing with the Motion**

- 9.7. Subject to Rule 9.8 of this Part 4D there is a presumption that the motion will be debated and dealt with at the Council meeting to which it is submitted and there shall be no automatic referral to another body of the Council.

## **Automatic reference to the Cabinet – Cabinet Function**

- 9.8. If the subject of any motion of which notice has been duly given comes solely within the powers, duties and responsibilities of the Cabinet, it shall, when it has been moved and seconded, stand referred to the Cabinet to determine. The mover on formally moving the motion has the right to speak to the motion. The seconder may also speak to the motion. The Chair will allow a period of fifteen minutes for a debate on any such notices of motion. This period shall include any speeches made by the mover and seconder of the motion in question. At the end of the debate if sooner or upon the expiration of the fifteen minutes, the appropriate Cabinet member shall have an opportunity to respond. No speeches including the response shall exceed ~~five~~ three minutes. No amendments to the motion may be moved. The motion will then stand referred to the Cabinet.
- 9.9. There are no rights of “Call-In” or “reference to the Council” where the Cabinet has discharged a motion submitted under this Procedure Rule.

## **Mover of a Motion: Attendance at Committee and Sub-Committee**

Committees and  
sub-committees

- 9.10. Where a motion has been referred from the Council to a Committee or Sub-Committee for consideration and report, the mover of the motion must attend the meeting and explain the motion.
- 9.11. The mover of the motion will be advised of the date and time of the meeting at which the matter is to be considered and they will be sent a copy of the relevant papers.

## **10. Motions moved without notice**

- 10.1. Only the following motions and amendments can be moved at a meeting without notice:

- 10.1.1. appointment of a Chair of the meeting at which the motion is made;
- 10.1.2. motions relating to the accuracy of the minutes;
- 10.1.3. that an item of business specified in the summons should have precedence;
- 10.1.4. reference to the Council, a Committee, Sub-Committee, or the Cabinet for consideration or reconsideration;
- 10.1.5. appointment of or appointment to Committees, Sub-Committees, or the Cabinet occasioned by an item mentioned in the summons to the meeting;
- 10.1.6. receipt of Records of Decisions and Minutes of Committees and Sub-Committees;
- 10.1.7. adoption of recommendations of the Cabinet, Committees and Sub-Committees and any consequent resolutions;
- 10.1.8. that leave is given to withdraw a motion;
- 10.1.9. receipt of reports of officers and any consequent resolutions;
- 10.1.10. extending the time limit for speeches;
- 10.1.11. amendment to motions;
- 10.1.12. that the meeting proceed to the next business;
- 10.1.13. that the question be now put;
- 10.1.14. that the debate be now adjourned;
- 10.1.15. that the meeting do now adjourn;
- 10.1.16. suspending Procedure Rules, in accordance with Procedure Rule 20 of this Part 4D;
- 10.1.17. motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public;
- 10.1.18. that a Councillor named under Procedure Rule 24 of this Part 4D should not be heard further;
- 10.1.19. by the Chair under Procedure Rule 24 of this Part 4D, that a Councillor do leave the meeting; and
- 10.1.20. giving consent of the Council where consent of the Council is required by these Procedure Rules.

## **11. General Questions by Councillors at Council meetings**

Council

- 11.1. A Councillor may ask the Chair, the Leader, a Portfolio Holder or the Chair of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.
- 11.2. Questions must be sent in writing to the Monitoring Officer or their nominated representative at least five clear working days before the meeting. In calculating



the period the date of the meeting and the date of submission of the question are not included in the calculation.

11.3. The Chair may agree to take urgent questions where they consider that it has not been possible for a Councillor to give the required notice, provided that a copy of the question is given to the Monitoring Officer before the meeting starts.

11.4. A question will be rejected by the Chair in consultation with the Monitoring Officer where it:

11.4.1. does not relate to a matter for which the Council has a responsibility, or which affects the Council's administrative area;

11.4.2. is defamatory, frivolous, offensive, vexatious, unlawful, solely or mainly rhetorical or otherwise improper;

11.4.3. requires the disclosure of Confidential or Exempt Information as defined by the Access to Information Procedure Rules;

11.4.4. names or identifies individual service users, Officers or members of staff of partner agencies;

11.4.5. is considered to be inappropriate for the particular meeting; or

11.4.6. duplicates a question that has been asked within the preceding six months.

11.5. A Councillor may ask no more than two questions at any meeting, but the Councillor may not ask their second question until other Councillors, if any, have asked their first questions, subject to the Chair's discretion.

11.6. Subject to Rule 11.5 of this Part 4D, questions will be asked in the order of receipt and answered without discussion. In replying, the Councillor answering the question will use their reasonable endeavours to address the matters raised in the question. The Councillor to whom the question is addressed may decline to answer any question or may: reply direct, refer the question to another appropriate Councillor to respond, reply by reference to a publication, reply by written answer with a copy to such other Councillors as the Council agrees, or refer the question to an appropriate Committee or to the Cabinet.

11.7. Following the answer to each question, the questioner may ask a supplementary question which relates to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate. The Councillor answering the supplementary question will decide whether or not to reply.

11.8. Where a question submitted under this Rule relates to a matter that appears on the Agenda for that meeting, the question shall be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter, and the time taken to deal with such questions will not form part of the 30 minutes set aside for General Questions.

11.9. The time allowed for Councillors to ask questions under this Rule will be a maximum of 30 minutes but is otherwise a matter for the discretion of the Chair

who, in exercising his discretion, will have regard to the business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

## 12. Public participation at meetings

- 12.1. The following procedures enable members of the public to submit questions, make statements and present petitions at ordinary meetings of the Council, Cabinet, Committees and Sub-Committees.
- 12.2. The time for questions, statements and petitions from members of the public shall normally commence immediately after the item 'Declarations of Interest' on the agenda for the meeting and shall be restricted to a total of 15 minutes, although, at the discretion of the Chair of the Council or the Chair of the meeting, this time may be extended. Where a question to which an answer is to be given is not reached within the time limit, a written answer shall be provided to the questioner within two working days of the meeting and a copy e-mailed to all Councillors.
- 12.3. This procedure does not apply to Planning Committee, Licensing Committee or Appeals Committee. Separate protocols establish the arrangements for public representations at Planning and Licensing Committees. Such protocols are reviewed and approved by the respective committee, included within Part 6 of the Constitution and published on the website.

Council,  
Cabinet,  
Committees and  
Sub-Committees  
(except  
Planning,  
Licensing and  
Appeals  
committees)  
unless otherwise  
stated

### Public Questions

- 12.4. Members of the public may ask questions at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for questions is as follows:
  - 12.4.1. subject to the requirements of this Protocol, a member of the public who lives or works in the area of the Council may submit a written question to the Leader of the Council, a Portfolio Holder or the Chair of the Council or of a Committee of the Council;
  - 12.4.2. a person wishing to ask a question shall submit the question in writing which must be received by the Monitoring Officer or their nominated representative four clear working days before the meeting at which it is to be asked. The person's name and address must be included. In calculating this period the date of the meeting and date of submission are to be excluded;
  - 12.4.3. a question at Council shall relate to Council business, shall not exceed 100 words in length and shall be so framed as to elicit information rather than make a statement;
  - 12.4.4. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item on the agenda of the meeting at which the question is asked and shall not exceed 100 words in length;
  - 12.4.5. at Full Council no member of the public may ask more than four questions in any one Municipal Year;

Council

Cabinet,  
Committees and  
Sub-Committees

Council

- 12.4.6. questions shall be provided to Councillors electronically prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon questions or answers;
- 12.4.7. the person asking the question may attend the meeting to read out their question or nominate another person to read out the question on their behalf, and to hear the answer. If someone is unable to attend and fails to nominate someone to attend on their behalf, the question will not be read out, but will be responded to by way of written answer;
- 12.4.8. if questions are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the question out of order;
- 12.4.9. in exceptional cases members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a question in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the question in consultation with the appropriate Chair.

## Public Statements

12.5. Members of the public may make statements at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for statements is as follows:

- 12.5.1. subject to the requirements of this protocol, a member of the public who lives or works in the area of the Council may submit a written statement to the Council, Cabinet, Committee or a Sub-Committee of the Council;
- 12.5.2. a person wishing to make a statement under this protocol shall submit the statement in writing which must be received by the Monitoring Officer or their nominated representative by midday the day before the meeting at which it is to be raised. The person's name and address must be included;
- 12.5.3. a statement at Council shall relate to Council business and shall not exceed 100 words in length. At Full Council no member of the public may submit more than four statements in any one Municipal Year;
- 12.5.4. a statement at Committee, Sub-Committee or Cabinet shall relate to an item on the agenda of the meeting at which the statement is made and shall not exceed 100 words in length;
- 12.5.5. statements shall be printed in order of receipt and circulated electronically to Councillors prior to the commencement of the meeting and hard copies made available for members of the

Council

Cabinet,  
Committees and  
Sub-Committees

public attending the meeting. No discussion shall be allowed upon statements;

- 12.5.6. the person making the statement shall normally attend the meeting to read out their statement. However, persons may, if they prefer, ask for an officer of the Council to read out their statement;
- 12.5.7. if statements are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the statement out of order;
- 12.5.8. in exceptional cases, members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a statement in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the statement in consultation with the appropriate Chair;

## **Petitions**

12.6. Anyone who lives, works or studies in the Council's area may sign or organise a petition and trigger a response. This includes anyone under the age of 18. This petition scheme explains the rules that the Council will apply to any petition it receives.

12.7. Petitions submitted to the Council under this scheme must:

- 12.7.1. include a clear and concise statement covering the subject of the petition;
- 12.7.2. state what lawful action the petitioners wish the Council to take;
- 12.7.3. be signed by at least 20 people supporting the petition;
- 12.7.4. include the name and address (in a legible format) and signature of any person supporting the petition together with their connection with the Council's area (i.e., lives, works or studies); and
- 12.7.5. contact details, including name, address, telephone number (and where possible, an e-mail address) of the petition organiser.

12.8. The petition organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.

12.9. An electronic petition system is available on the Council's website.

12.10. If a petition does not include all of the information required by this scheme it may not be accepted by the Monitoring Officer. In that case, the Council will write to the petition organiser to explain the reasons why.

## **Petitions not included in this scheme**

- 12.11. The Council will not take action on any petition which the Monitoring Officer considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in the acknowledgement of the petition.
- 12.12. This petition scheme does not apply to:
- 12.12.1. any petition which is not about a matter for which the Council has a responsibility, or which affects its area;
  - 12.12.2. any petition relating to a planning or licensing application or decision (which will be referred by the Monitoring Officer to the relevant officer/committee so that it can be considered in accordance with arrangements that the relevant committee has agreed);
  - 12.12.3. a statutory petition (for example requesting a referendum);
  - 12.12.4. a petition that is related to confidential staffing matters; or
  - 12.12.5. a petition relating to a matter where there is already an existing recourse to a review or right of appeal, such as council tax banding and non-domestic rates, where other procedures apply.
- 12.13. In addition, any petition on the same or similar topic as one that the Council has received and dealt with in the previous six months is excluded.
- 12.14. Details of petitions affecting particular wards that have been excluded will be sent to the Councillors representing those wards.
- 12.15. In exceptional cases, members of the public who do not live, work or study in the Council's area but who are, nevertheless, affected by a decision or potential decision of the Council can submit a petition in accordance with this scheme and the Monitoring Officer will determine the relevance of such a petition in consultation with the Chair of Council or with the Chair of the appropriate Committee.

## **Guidelines for submitting a petition**

- 12.16. Petitions can be submitted in paper format or electronically through the Council's e-petition portal.
- 12.17. Paper petitions can be submitted to the Monitoring Officer at the main office of the Council.
- 12.18. The Council will accept e-petitions hosted by third parties which meet the requirements of this scheme, in particular those required by Rule 12.7 of this Part 4D.
- 12.19. If the appropriate threshold is met, petitions can also be presented to a meeting of the Council or its Committees or to the Cabinet. Where the threshold is met the petition organiser should contact the Monitoring Officer at least 10 working days before the meeting.

## How the Council will respond to a petition

- 12.20. The Council will acknowledge receipt of a petition within 10 working days setting out what the Council plans to do with the petition. The acknowledgment will let the petition organiser know what the Council plans to do with the petition and when they can expect to hear from the Council again. The petition will be published on the Council's website, except in cases where this would be inappropriate. Where the subject matter of the petition affects particular wards, the Councillors representing those wards will be notified of the receipt of the petition.
- 12.21. If paragraph 3.3 applies to the petition, then the Council's acknowledgement will include details of any previous petition on the same topic. If the Council is still considering a petition on the same or similar topic, the acknowledgement will tell the petition organiser that the new petition has been amalgamated with the first petition.
- 12.22. The Council's response to a petition will depend on what a petition asks for, but may include one or more of the following:
- 12.22.1. taking the action requested in the petition;
  - 12.22.2. considering the petition at a meeting of the Council or Cabinet;
  - 12.22.3. holding an inquiry into the matter;
  - 12.22.4. holding a public meeting;
  - 12.22.5. holding a meeting with petitioners or the petition organiser;
  - 12.22.6. undertaking research into the matter;
  - 12.22.7. writing to the petition organiser setting out the Council's views about the request in the petition;
  - 12.22.8. referring the petition to an Overview and Scrutiny Committee or another Committee of the Council for consideration;
  - 12.22.9. referring the petition, in the first instance, to another formal body of the Council where the subject matter of the petition falls within the scope of the terms of reference of that body.
- 12.23. The Council's response may also depend on the number of people who have signed the petition. The table below sets out the thresholds:

Number of signatories	Response
20 – 49	Response from relevant director / service head (treated as standard correspondence)
50 – 1,999	Response from relevant Cabinet member
2,000 +	Referred for debate at a meeting of Full Council

12.24. If the Council is able to do what a petition asks, the acknowledgement to the petition organiser may confirm that the Council has taken the action requested and the petition will be closed.

12.25. Where the petition is referred to the relevant Cabinet member for a response, the petition organiser will be invited to make a written statement in support of the petition (if one has not already been included in the petition).

12.26. If the petition has enough signatures to be referred to trigger a debate at a meeting of the Full Council, then the acknowledgment will confirm this and inform the petition organiser when and where the relevant meeting will take place. The Council will try to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.

Council

12.27. Where the petition is referred to the Full Council, the petition organiser (or any person authorised by them) will, if they so wish, be given a period not exceeding three minutes to present the petition at the meeting and unless the petition is referred to the Overview and Scrutiny Committee or another Committee or sub-committee for consideration without debate; the petition will be debated by members. Members may ask questions of the petition organiser. The petition organiser (or any person authorised by them) will be granted a right of reply for a further period not exceeding three minutes at the end of the debate and before a final decision or vote is taken.

Council

## 13. Rules of Debate

### Motions and Amendments

13.1. No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Chair, motions or amendments shall be put in writing and handed to the Chair before they are further discussed or put to the meeting.

13.2. At meetings other than those of the Full Council, the Chair of that meeting may, at their discretion, allow a motion or amendment to be put which is not in writing, provided that the Chair has concluded that the wording of the motion or amendment is understood by all members of the body concerned. This requirement does not apply to motions submitted under Procedure Rule 9 of this Part 4D.

Cabinet,  
committees and  
sub-committees

### Seconders' Speech

13.3. When seconding a motion or amendment a Councillor may advise the Chair that they will reserve their right to speak until a later period in the debate.

### Only One Councillor to Stand at a Time

13.4. When speaking at the Council meeting a Councillor shall stand and address the Chair. While a Councillor is speaking the other Councillors will remain seated, unless rising on a point of order or in personal explanation.

Council

## **Content and Length of Speeches, Questions and Responses to Questions**

13.5. A Councillor will confine their speech to the question under discussion, a personal explanation or a point of order. Except as indicated below, in the case of speeches made by Councillors when the Council is agreeing a budget, or where the Council, Committee or Sub-Committee otherwise agrees, no speech, question or response to a question will exceed three minutes.

13.6. In advance of the meeting at which the Council is due to agree a budget, the Council's Political Groups may agree a protocol which makes provision for a limited number of speeches to be made on behalf of each Political Group, and which exceed the three minute limitation contained in these Rules. The Chair will have discretion as to how such a protocol will be implemented at the meeting and, where no agreement can be reached between the Political Groups, whether and (if so) how any extension of the three minute limitation might be permitted to operate.

Council

### **When a Councillor may speak again**

13.7. At the Council meeting a Councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

Council

- 13.7.1. to speak once on an amendment moved by another Councillor;
- 13.7.2. if the motion has been amended since they last spoke, to move a further amendment;
- 13.7.3. if their first speech was on an amendment moved by another Councillor, to speak on the main issue, whether or not the amendment on which they spoke was carried;
- 13.7.4. in exercise of a right of reply;
- 13.7.5. on a point of order referring to the specific Procedure Rule;
- 13.7.6. by way of personal explanation; or
- 13.7.7. to move one of the motions specified in Rule 13.16 of this Part 4D when the procedure in those paragraphs shall be followed.

13.8. At Cabinet, Committees or Sub-Committees Councillors may, at the discretion of the Chair, speak more than once.

Cabinet,  
committees and  
sub-committees

### **Amendments to Motions**

13.9. An amendment must be relevant to the motion and shall propose to do one of the following:

- 13.9.1. to leave out words;
  - 13.9.2. to leave out words and add others; and/or
  - 13.9.3. to insert or add words,
- but such amendment shall not have the effect of negating the motion before the Council.



## **Number of Amendments**

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

## **Status of Amendments**

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

## **Alterations to Motions or Amendments**

- 13.12. A Councillor may alter a motion or amendment of which they have given notice and may also, with the consent of the seconder, alter a motion or amendment which they have moved. In both cases, the consent of the Council (the Committee or Sub-Committee) is required. There should be no discussion on whether consent should or should not be given.

## **Withdrawal of Motion**

- 13.13. A motion or amendment may be withdrawn by the mover provided the seconder and the meeting, without discussion, agree. Once the mover has asked for permission to withdraw, there should be no further discussion, unless the meeting refuses to agree to the request.

## **Right of Reply**

- 13.14. The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote.
- 13.15. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have the right of reply to the debate on their amendment immediately before the mover of the original motion.

## **Closure Motions**

- 13.16. A Councillor may move, without comment, at the conclusion of a speech of another Councillor, "That the meeting proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the meeting do now adjourn". When one of these Motions has been seconded the Chair shall proceed as follows:
- 13.16.1. on a motion to proceed to next business - unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business;

- 13.16.2. on a motion that the question be now put - unless in their opinion the matter before the meeting has been insufficiently discussed, they shall put to the vote the closure motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote; and
- 13.16.3. on a motion to adjourn the debate or the meeting - if in their opinion the matter before the meeting has been insufficiently discussed on that occasion they shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.

### **Points of Order**

13.17. A Councillor may rise on a Point of Order and shall be entitled to be heard immediately. A Point of Order shall relate only to an alleged breach of a Procedure Rule or statutory provision and the Councillor shall specify the Procedure Rule or statutory provision and the way in which they consider it has been breached. The ruling of the Chair of the meeting on a Point of Order shall not be open to discussion and shall be final.

### **Personal Explanation**

13.18. A Councillor may rise in Personal Explanation and shall be entitled to be heard immediately. A Personal Explanation shall be confined to some material part of a former speech by them which may appear to have been misunderstood in the current debate. The ruling of the Chair of the meeting on a Personal Explanation shall not be open to discussion and shall be final.

### **Respect for the Chair**

13.19. At the Council meeting whenever the Chair rises during a debate a Councillor then standing shall sit down and the Council shall be silent.

Council

13.20. In Committee or Sub-Committee meetings, whenever the Chair rises from their seat, the Councillors should remain in their seats and the Committee or Sub-Committee shall be silent.

Committees and  
sub-committees

## **14. Rescission of earlier resolution**

14.1. Subject to Rule 14.2 of this Part 4D, at a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period.

Council

14.2. Such a motion may be moved if:

- 14.2.1. It is recommended by the Cabinet or a Committee
- 14.2.2. Notice of such motion has been given under Rule 9 of this Part 4D and signed by at least one quarter of Councillors.

## **15. Requests by Councillors for items of business to be included on agendas of a Committee or Sub-Committee**

Committees and  
sub-committees

- 15.1. This Rule does not apply to special meetings of Committees and Sub-Committees or to the Cabinet.
- 15.2. A Councillor may, by notice given to the Monitoring Officer or their nominated representative no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.
- 15.3. A Councillor may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the signature of that Councillor.
- 15.4. This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a Committee or Sub-Committee of the Council within the preceding 12 months.
- 15.5. Items arising from such notices shall appear on the agenda at the end of the Part 1 or 2 business (public and non-public business).
- 15.6. This procedure will apply to Councillors exercising their rights under The Local Government Act 2000 as amended by Section 9FC of the Localism Act 2011, to request that an item be included on the Agenda of the Overview and Scrutiny Board or an Overview and Scrutiny Committee where the item is within the remit of that particular body. It should be read in conjunction with the Overview and Scrutiny Procedure Rules set out in Part 4C of this Constitution. The restrictions in Rule 15.3 of this Part 4D on the number of items shall not apply.

Overview and  
Scrutiny  
Committees and  
Board

## **16. Disclosure of Confidential/Exempt Matters**

- 16.1. No Councillor shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked “confidential” or “not for publication” unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet, a Committee or Sub-Committee.
- 16.2. No Councillor shall disclose to any person other than a Councillor any matter arising during the proceedings of the Council, the Cabinet, any Committee, or Sub-Committee and which comes to their knowledge by virtue of their office as a Councillor where such disclosure would prejudice the interest of the Council or would be contrary to law.
- 16.3. No Councillor shall disclose to any person any decision or proceedings of that body except when one of the following applies (provided that nothing in this paragraph shall authorise disclosure which would contravene Rule 16.1 or Rule 16.2 of this Part 4D):
- 16.3.1. a report on the matter has been circulated to the Council by that body;

- 16.3.2. the decision has become public knowledge; or
- 16.3.3. the matter comes within the powers of that body and a final decision has been made upon it.

## **17. Voting**

- 17.1. Voting will be by a show of hands or where practical and the means are available to those present, by electronic means. Where there is a clear majority in favour of a proposal the person presiding will ask if any Councillor wishes to vote against or abstain from a proposal.
- 17.2. When a Councillor asks for a recorded vote to be taken, and one quarter of Councillors present support the request, the vote will be recorded to show whether each Councillor voted for or against the motion or abstained.
- 17.3. A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 17.4. A Councillor may require, after a vote is completed, that the minutes of the meeting record how they voted or abstained.
- 17.5. Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.

## **18. Offices and Appointments**

- 18.1. A secret ballot will be held to elect the Chair and Vice-Chair of the Council, Committees and Sub-Committees, or Councillors to any office or position where more than one person is nominated.
- 18.2. If a secret ballot is held and no person receives more than half of the votes cast, the name of the person with the least number of votes will be withdrawn. Further ballots will be held until one person receives a clear majority.
- 18.3. The Chair, or person presiding, will have a second or casting vote where the votes are equal.

## **19. Variation and revocation of Procedure Rules**

Any motion under Procedure Rule 9 (Motions on Notice) of this Part 4D, to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

Council

## **20. Suspension of Procedure Rules**

- 20.1. Any of the Procedure Rules may be suspended to the extent permitted within the Rules and the law in respect of any business at a meeting of the Council, Cabinet, a Committee or Sub-Committee where its suspension is moved.
- 20.2. A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 10 of this Part 4D) unless there shall be present at least

one-half of the Members of the Council or that Committee or Sub-Committee respectively. The extent and duration of the suspension will be proportionate to the result to be achieved taking into account the purposes of the Constitution set out in Article 1.

## **21. Interpretation of Procedure Rules**

The ruling of the person presiding as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

## **22. Substitute Members**

Committees and  
sub-committees

22.1. A Political Group may, by notice to the Monitoring Officer or their nominated representative, appoint a substitute member from within its Group for a meeting of a Committee or Sub-Committee.

22.2. Members of the Cabinet shall not be nominated as substitutes for any Overview and Scrutiny Committee or Regulatory Committee.

22.3. Where a Political Group intends to vary its representation on a Committee or Sub-Committee, the Group Leader (or their nominated representative) shall inform the Monitoring Officer or their nominee prior to the meeting, and the Substitute Member shall inform the Chair at the beginning of the meeting. The outgoing member shall cease to be the Political Group's representative on that Committee or Sub-Committee for the duration of that meeting or any adjournment of it, and that substitute Councillor shall become the representative on the Committee or Sub-Committee for the same period. At the end of the meeting, the outgoing member shall resume their representation on the Committee or Sub-Committee in question.

22.4. On receipt of a Notice under this Procedure Rule the Monitoring Officer shall, at the meeting (prior to the commencement of the main business) inform the Committee or Sub-Committee.

22.5. For the avoidance of doubt, there are no substitute arrangements in respect of the Cabinet.

## **23. Attendance of Councillors at Committees and Sub-Committees of which they are not members**

Committees and  
sub-committees

23.1. Notwithstanding their rights as a member of the public, a Councillor may attend any meeting of a Committee or Sub-Committee to which they have not been appointed, for the purposes of performing their duties as a Councillor, including when Exempt or Confidential business is transacted subject to the provisions of the Access to Information Rules.

23.2. A Councillor will be provided with access to a copy of the agenda and relevant papers when they arrive at the meeting, subject to the Access to Information Rules set out at Part 4A of this Constitution.

23.3. The Councillor has no right to vote but may speak with the consent of the Chair of the meeting.

## **24. Disorderly conduct by Councillors**

24.1. If at a meeting any Councillor, in the opinion of the person presiding, misconducts themselves in any way, the person presiding shall warn them. If the misconduct continues, the person presiding or any other Councillor may move "That the Councillor be not further heard". The motion, if seconded, shall be put and determined without discussion.

24.2. If the Councillor continues the misconduct after a motion under the Rule 24.1 of this Part 4D has been carried, the person presiding may: either move "That the Councillor do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.

24.3. In the event of general disturbance by Councillors at any meeting which, in the opinion of the person presiding, renders the due and orderly dispatch of business impossible, the person presiding, will have the power to adjourn the meeting.

## **25. Disturbance by members of the Public**

If a member of the public interrupts the proceedings at any meeting the person presiding shall warn them. If they continue, the person presiding shall order their removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

## **26. Submission of Notices by Councillors – Electronic Means**

A Councillor may communicate, by electronic means, any notice under any of the Council's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Councillor.

## **27. Overview and Scrutiny Board/Committees/Sub-Committees**

In applying these Rules to the Overview and Scrutiny Board, Overview and Scrutiny Committees and Sub-Committees, regard shall be had to the Overview and Scrutiny Procedure Rules which are contained in Part 4C of this Constitution.

## **28. Protocol for the Establishment and Running of Combined In-person and Virtual Attendance Meetings during the Covid-19 Response Period**

### **Introduction**

28.1. This Procedure Rule provides the means and guidance for the conduct of combined in-person and virtual attendance meetings of the Council and its committees.

28.2. The Procedure Rules should be read in conjunction with the Standing Orders and Procedure Rules within the Council's Constitution.

### **Notice of Meetings**

28.3. The Proper Officer will give the requisite notice to the public of the time of the meeting, and the Agenda, together with details of how to view the meeting via the following web site (<https://democracy.bcpccouncil.gov.uk/>)

28.4. Councillors will be notified of a remote meeting by email and all agenda papers will be available on the Council's website.

28.5. The 'place' at which the meeting is held may be a Council building or may, subject to applicable legislation, be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely.

### **Access to Meetings**

28.6. Non-voting participatory Councillors will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely. If this is not possible, attendance may be through an audio link or by some other electronic means.

28.7. In the interests of general public health and notwithstanding the legal rights for public attendance, remote access for members of the public and councillors who are not attending to participate in the meeting together with press facilities, will be provided through webcasting.

28.8. It is important to note that the public accessing the meeting by remote means, as described in 28.7, is different from the public attending to exercise a right to speak. A technological failure removing the ability for the public to access the meeting by remote means may render the meeting incapable of proceeding.

### **Management of Remote Participation**

28.9. Any Councillor participating in a meeting remotely must, when they are speaking, be able to be heard (and ideally seen) by all other Councillors in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other Councillors participating.

28.10. In addition, a remote participant must be able to be heard by, and in turn hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting.

28.11. The Chair will normally confirm at the outset and at any reconvening of a meeting that they can see and hear all participating members (this is unlikely to be practical for a meeting of the Full Council). Any Councillor participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants.

- 28.12. The attendance of those Councillors at the meeting will be recorded by the Democratic Services Officer.
- 28.13. The normal quorum requirements for meetings as set out in the Constitution will also apply to a remote meeting.
- 28.14. In the event of any apparent failure of the video, telephone or conferencing connection, the person presiding should immediately determine if the meeting is still quorate:
- 28.14.1. if it is, then the business of the meeting will continue; or
  - 28.14.2. if there is no quorum, then the meeting shall adjourn for a period specified by the person presiding to allow the connection to be re-established.
- 28.15. If the meeting was due to determine an urgent matter or one which is time limited and it has not been possible to continue because of technical difficulties, the Chief Executive, in consultation with the Monitoring Officer and where appropriate/possible the relevant cabinet member, shall explore such other means of taking the decision as may be permitted by the Council's constitution.
- 28.16. Should any aspect of an individual's remote participation fail, the person presiding may call a short adjournment of up to five minutes to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative (this is unlikely to be practical for a meeting of the Full Council). If the connection is not restored within that time, the meeting shall continue to deal with the business whilst this happens providing the meeting remains quorate and the public are able to hear.
- 28.17. In the event of connection failure, the Councillor(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those Councillor(s) before the end of the meeting, then the presumption will be that the meeting should continue to deal with the item(s) of business. If the connection is successfully re-established, then the Councillor(s) will be deemed to have returned at the point of re-establishment.
- 28.18. Etiquette at the meeting is referred to further below.

### **Remote Attendance by the Public**

- 28.19. Any member of the public who has been given permission by the Chair to address a meeting in accordance with the Constitution must meet the same criteria as Councillors. Members of the public attending a meeting remotely must, when they are speaking, be able to be heard (and ideally seen) by Councillors in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other members participating.
- 28.20. Access to the meeting will be determined in accordance with the Meeting Procedure Rules set out at Part 4D of this Constitution. In such instances, an invitation to participate in the remote technology will be sent out.



- 28.21. Members of the public who have been given permission by the Chair to address a meeting may read out their question or written statement, of which prior notice will have been given, when invited to do so by the Chair.
- 28.22. As an alternative, members of the public who wish to address the meeting may submit a written statement that can be read out by the Chair at the appropriate time.
- 28.23. The Democratic Services Officer or meeting facilitator (see below) should be able to mute the member of the public once they have spoken, and remove them from the remote meeting on the instruction of the Chair, in order to maintain the good administration of the meeting or to retain order.
- 28.24. A breakdown of the technology should not disadvantage the member of the public in remote attendance wherever possible.

### **Meeting Procedures**

- 28.25. A meeting facilitator, who may be the Democratic Services Officer but preferably in addition to, will control the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and member interaction, engagement and connections on the instruction of the Chair.
- 28.26. The Council will endeavour to put in place a technological solution that will enable Councillors participating in meetings remotely to indicate their wish to speak via this solution, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.
- 28.27. It will greatly assist the meeting if those Councillors who wish to speak on a particular item could indicate their wish to speak to the Chair and to the Democratic Services Officer in advance of the start of the meeting where possible. Political groups are encouraged to co-ordinate this activity where possible, particularly in respect of Council and other meetings likely to result in a high number of requests to speak. This is particularly important if Councillors are unable to participate via video conference.
- 28.28. The Chair will follow the Rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches.
- 28.29. At the beginning of the meeting, the Chair will explain the protocol for Councillor and public participation and the rules of debate. The Chair's ruling during the debate will be final.
- 28.30. Councillors are asked to adhere to the following etiquette during remote attendance at a meeting:
- 28.30.1. members of the committee or body in question are asked to join the meeting no later than fifteen minutes before the start to allow themselves and Democratic Services the opportunity to test the equipment and verify identity;

- 28.30.2. any camera (video feed) should show a non-descript background or a virtual background and Councillors should be careful to not allow exempt or confidential papers to be seen in the video-feed;
  - 28.30.3. Councillors must take care to type their name on joining the meeting in full, i.e. "Cllr Joanne Smith" (where the technological solution employed by the authority enables this);
  - 28.30.4. all Councillors must have their microphones muted when not talking;
  - 28.30.5. rather than raising one's hand or rising to be recognised or to speak, Councillors should avail themselves of the remote process for requesting to be heard;
  - 28.30.6. Councillors will only speak when invited to by the Chair;
  - 28.30.7. only one person may speak at any one time;
  - 28.30.8. Councillors should turn on the microphone and also the video-feed (if available) then state their name before speaking; and
  - 28.30.9. when referring to a specific report, page, or slide, mention the report, page, or slide so that all Councillors have a clear understanding of what is being discussed at all times.
- 28.31. Where members of the public are exercising speaking rights at the meeting via remote attendance, the Chair will, as part of their introduction, explain the procedure for their participation. Members of the public must adhere to this procedure otherwise they may be excluded from the meeting.
- 28.32. When the Chair is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed the Chair will progress to a decision. Unless a Recorded Vote is called, the method of voting will be at the Chair's discretion and will be by one of the following methods:
- 28.32.1. a vote by electronic means; or
  - 28.32.2. an officer calling out the name of each Councillor present with:
    - a) Councillors stating 'for', 'against', or 'abstain' to indicate their vote when their name is called; or
    - b) the Democratic Services Officer clearly stating the result of the vote and the Chair then moving onto the next agenda item.
  - 28.32.3. by the general assent of the meeting.
- 28.33. Details of how Councillors voted will not be minuted unless a Recorded Vote is called. Where a Recorded Vote is requested the Chair will ask Councillors in turn to signify verbally whether or not they support that request.

## **Declarations of Interest**

28.34. Any Councillor participating in a remote meeting who declares a disclosable pecuniary interest, or other declarable interest, in any item of business that would normally require them to leave the room, must also leave the remote meeting. Their departure will be confirmed by the Democratic Services Officer who will invite the relevant Councillor by link, email or telephone, to re-join the meeting at the appropriate time.

## **Exclusion of Public and Press**

28.35. There are times when Council meetings are not open to the public, when confidential, or “exempt” issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting are able to hear or see the proceedings once the exclusion has been agreed by the meeting.

28.36. Each Councillor in remote attendance must ensure and confirm that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.

28.37. Any Councillor in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of the Council’s Code of Conduct.

## **Public Access to Meeting Documentation following the meeting**

28.38. Members of the public may access minutes, decisions and other relevant documents through the following website <https://democracy.bcpCouncil.gov.uk>. Requests for access to the list of background papers and other relevant documents should be by email to the relevant officers.

## Part 4D

## PART 4E

# OFFICER EMPLOYMENT PROCEDURE RULES

## **E. Officer Employment Procedure Rules**

### **1. General**

- 1.1. Officers within the Council are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the Council or individuals.
- 1.2. Generally, (except for certain Senior Officer appointments) the function of appointment and dismissal of, and taking disciplinary action against, an Officer of the Council must be discharged on behalf of the Council by the Head of the Paid Service or by an Officer nominated by them.
- 1.3. The Head of HR & OD will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

### **2. Recruitment and Appointment of Officers**

- 2.1. Subject to the provisions of these Procedures, the recruitment, employment, appointment, designation and engagement of all Officers will be conducted in accordance with the law and the Council's policies and procedures.

#### **Declarations of Relationships**

- 2.2. Any candidate for any designation or appointment with the Council who knows that they are related to a Councillor or Officer of the Council shall, when making application, disclose, in writing, that relationship to the Head of Human Resources and Organisational Design ("Director of HR & OD").
- 2.3. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.4. Every Councillor and Officer of the Council shall disclose to the Head of HR & OD any relationship known to them to exist between them and any person they know is a candidate for a designation or appointment by the Council.
- 2.5. Persons shall be deemed to be related to a candidate or Officer if they are a spouse, partner (i.e. member of a couple living together), parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.
- 2.6. In the case of a dispute under Rule 2.5 of this Part 4E about the status of a relationship in relation to an appointment, the Head of HR& OD will rule and such ruling will be applied.

## **Seeking Support for Appointment**

- 2.7. Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or Officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal.
- 2.8. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.

## **3. Responsibility for Human Resources Matters**

Subject to any matters reserved to the Council, the Cabinet is responsible for the development of Corporate Human Resources policies; determining and monitoring such policies; and the operational implementation of those policies, including the development of practices and procedures to support them.

## **4. Appointment of Head of the Paid Service, Chief Officers (Tier 2 Appointments), Monitoring Officer and Section 151 Officer**

- 4.1. The appointment to the above posts will be made by Full Council following a process arranged by the Head of HR & OD as set out below.
- 4.2. Where the Council proposes to appoint to one of the posts above, the Head of HR & OD will oversee the arrangements for filling the vacancy in consultation with the Leader of the Council. The Head of HR & OD will make arrangements which will include convening a member panel which will not be a formal Committee of the Council, but will contain relevant members and include at least one opposition member and at least one member of the Cabinet.
- 4.3. The Head of HR & OD shall, in consultation with the member panel they have convened:
  - 4.3.1. draw up a statement specifying the duties of the Officer post and any qualifications or guidelines to be sought in the person to be appointed;
  - 4.3.2. 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;
  - 4.3.3. make arrangements for a copy of the statement mentioned above to be sent to any person on request; and
  - 4.3.4. where a post has been advertised as required above, the member panel, Head of HR & OD and any other person the Head of HR & OD considers appropriate to support the process will select from the applications a short list of qualified candidates and will then interview those included in the shortlist.
- 4.4. Following the interview of candidates, the panel will come to a view as to the most suitable person for the position.

- 4.5. The Panel must advise the Head of HR & OD of:
- 4.5.1. the name of the person in question; and
  - 4.5.2. any other particulars which the Panel consider are relevant to the appointment.
- 4.6. Within two clear working days of interview the Head of HR & OD will notify each member of the Cabinet of:
- 4.6.1. the name of the person and any other information they consider relevant to the appointment; and
  - 4.6.2. the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Head of HR & OD; such period shall not exceed five clear working days.
- 4.7. A recommendation to Full Council must wait until:
- 4.7.1. the Leader has, within the period of the notice under paragraph 4.6 above, notified the Head of HR & OD that neither they nor any member of the Cabinet has any objection to the making of the offer; or
  - 4.7.2. the period of the notice under paragraph 4.6 above has expired without objection; or
  - 4.7.3. the Head of HR & OD is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Monitoring Officer should be sought.
- 4.8. Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the Head of HR & OD will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.
- 4.9. Where following the interviews the Head of HR & OD in consultation with the panel are of the view that there is no suitable candidate, they will re-advertise the post.
- 4.10. Where Full Council does not approve the recommendation, it shall indicate how it wishes to proceed.

## **5. Dismissal of Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers**

- 5.1. The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 ("the Regulations") will be followed in respect of those posts which fall within the definitions of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officer and Deputy Chief Officer.



- 5.2. In regard in particular to the dismissal of the Head of Paid Service, Monitoring Officer or Section 151 Officer the Council by way of this paragraph formally adopts the statutory procedure as set out in Regulation 6 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001.

## **6. Appointments/dismissal of other Officers**

Where any appointments are made to positions other than those referred to in paragraph 5 above, or where such persons are dismissed, these shall be the responsibility of the Head of Paid Service, or another Officer to whom they have delegated that responsibility.

This page is intentionally left blank

# PART 6

## CODE OF CONDUCT AND PROTOCOLS

The following schedules contain Codes and Protocols which have been adopted by the Council.

Full Council is required to adopt Schedule 1 (Code of Conduct for Councillors), Schedule 2 (Protocol for Councillor / Officer Relations) and Schedule 3 (Local Code of Best Practice relating to Planning Matters).

The remaining Protocols are adopted by their respective committees or bodies but are included within this Part 6 of the Constitution for completeness and ease of reference.

<b>Schedule</b>	<b>Codes requiring Council approval</b>	<b>Page</b>
Schedule 1	Code of Conduct for Councillors	2
Schedule 2	Protocol for Councillor / Officer Relations	18
Schedule 3	Local Code of Best Practice relating to Planning Matters	24
<b>Local Protocols</b>		
Schedule 4	Planning Committee - Site Visit Protocol	32
Schedule 5	Licensing Committee and Sub-Committee - Protocol for Public Speaking	36
Schedule 6	Licensing Committee and Sub-Committee - Protocol for Public Representation at Virtual Meetings	40
Schedule 7	Licensing Committee and Sub-Committee - Site Visit Protocol	44

## CODE OF CONDUCT FOR COUNCILLORS

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## INTRODUCTION

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## DEFINITIONS

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

- (a) is a member of any committee or sub-committee of the authority, or;
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **PURPOSE OF THE CODE OF CONDUCT**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **GENERAL PRINCIPLES OF COUNCILLOR CONDUCT**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **APPLICATION OF THE CODE OF CONDUCT**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **STANDARDS OF COUNCILLOR CONDUCT**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **GENERAL CONDUCT**

### **1. Respect**

**As a councillor:**

- 1.1. I treat other councillors and members of the public with respect.**
- 1.2. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow

councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. BULLYING, HARASSMENT AND DISCRIMINATION**

**As a councillor:**

- 2.1. I do not bully any person.**
- 2.2. I do not harass any person.**
- 2.3. I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. IMPARTIALITY OF OFFICERS OF THE COUNCIL**

**As a councillor:**

- 3.1. I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

## **4. CONFIDENTIALITY AND ACCESS TO INFORMATION**

**As a councillor:**

### **4.1. I do not disclose information:**

- (a) given to me in confidence by anyone**
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - (i) I have received the consent of a person authorised to give it;**
  - (ii) I am required by law to do so;**
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - (iv) the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

### **4.2. I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

### **4.3. I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. DISREPUTE**

**As a councillor:**

### **5.1. I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary



members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. USE OF POSITION**

**As a councillor:**

**6.1. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. USE OF LOCAL AUTHORITY RESOURCES AND FACILITIES**

**As a councillor:**

**7.1. I do not misuse council resources.**

**7.2. I will, when using the resources of the local authority or authorising their use by others:**

- (a) act in accordance with the local authority's requirements; and**
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should

be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. COMPLYING WITH THE CODE OF CONDUCT**

**As a Councillor:**

- 8.1. I undertake Code of Conduct training provided by my local authority.**
- 8.2. I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **PROTECTING YOUR REPUTATION AND THE REPUTATION OF THE LOCAL AUTHORITY**

### **9. Interests**

**As a councillor:**

- 9.1. I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. GIFTS AND HOSPITALITY**

**As a councillor:**

- 10.1. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable pecuniary interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but

otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non- Registerable Interests**

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which ***affects*** –
  - a. your own financial interest or well-being;
  - b. a known financial interest or well-being of a friend, relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) ***affects*** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

Subject	Description
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

'director' includes a member of the committee of management of an industrial and provident society.

'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registerable Interests

<p>You must register as an Other Registerable Interest:</p> <ul style="list-style-type: none"> <li>(a) any unpaid directorships</li> <li>(b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority</li> <li>(c) any body <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</li> </ul> of which you are a member or in a position of general control or management</li> </ul>
--



# **ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS**

## **1. INTRODUCTION**

- 1.1. The Council is required to adopt arrangements to deal with complaints that councillors have breached the Code of Conduct.

## **2. PROCESS**

- Complaint received by Monitoring Officer.
- Upon receipt of a complaint under the Code of Conduct the Monitoring Officer (or their nominee) should undertake an initial assessment and may:-
  - (a) reject the complaint on the grounds that it falls outside the scope of a valid Code of Conduct complaint;
  - (b) determine that there is no breach of the Code and no further action should be taken; or
  - (c) where considered appropriate, enter into an early preliminary and informal dialogue with the complainant and the Councillor complained of, and agree a speedy informal resolution of the complaint
  - (d) refer the complaint to the Chair of Standards Committee for consideration in accordance with the procedure set out below.
- Types of informal resolution referred to in (c) above might include:
  - (a) An explanation by the subject Councillor of the circumstances surrounding the complaint;
  - (b) An apology from the subject Councillor;
  - (c) Agreement from the subject Councillor to attend relevant training or to take part in a mentoring process or, where the complainant is also a Councillor, an agreement to participate in mediation involving the appropriate Political Group Leaders;
  - (d) Offering to engage in a process of mediation or conciliation between the subject Councillor and the complainant;
  - (e) Correcting an entry in a register;
  - (f) Any other action capable of resolving the complaint.
- Where, in the opinion of the Monitoring Officer, the subject Councillor has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Councillor of this decision.

- If mediation is unsuccessful, the Monitoring Officer will provide details of the complaint formally to the Councillor and seek an initial response. The Councillor will be advised of the right to speak to the Independent Person (IP).
- The Councillor, within five working days or longer at the discretion of the Monitoring Officer, should then provide an initial response to the complaint.
- The Chair of the Standards Committee in consultation with Councillors of the Standards Committee and the Monitoring Officer will then decide whether:
  - There is no breach of the Code and no further action should be taken; or
  - There is a potential breach of the Code and informal resolution is appropriate, to include for example mediation, training, apology, advice; or
  - There is a potential breach of the Code and the Monitoring Officer should undertake or commission an investigation into the complaint with a view to a report then being considered by the Standards Committee.
- The Councillor and complainant will be kept informed and will be notified of the outcome of the initial consideration by the Chair and members of the Committee.
- Where there is no further action to be taken, or the matter is dealt with by informal resolution, the Monitoring Officer shall report on such outcomes by way of an update report to the Standards Committee which will retain oversight of the arrangements.
- Where the matter is considered at a meeting of the Standards Committee further to an investigation, this will be at a formal meeting of the Committee subject to the relevant Procedure Rules contained in Part 4 of this Constitution.

### **3. CRITERIA TO BE USED IN DETERMINING THAT NO FURTHER ACTION SHOULD BE TAKEN**

- 3.1. A complaint may be dismissed as requiring no further action at the initial assessment stage where the Chair, in consultation with councillors of the Standards Committee, the Independent Persons and the Monitoring Officer considers that:-
- (a) the person complained about is no longer a member of the relevant local authority; or
  - (b) the matter being complained about happened more than 12 months before the complaint was received; or
  - (c) the matter or issue being complained about came to the complainant's notice more than 6 months before the complaint was received; or

- (d) insufficient information has been submitted at the outset to demonstrate that there has been a prima facie breach of the Code; or
- (e) the complaint is based essentially on hearsay evidence and is not supported at the outset by detailed and verifiable supporting evidence; or
- (f) the complaint does not relate to behaviour in the member's official capacity as a councillor; or
- (g) the matter complained about is so trivial that it would not be in the public interest or proportionate to pursue it further; or
- (h) the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant; or
- (i) the conduct complained about has already been the subject of investigation or enquiry by another public body; or
- (j) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and there is nothing further to be gained; or
- (k) the complaint was made anonymously; or
- (l) the complainant has requested that their identity as complainant be withheld from the member, and it is considered that the matter cannot reasonably be taken further in these circumstances; or
- (m) the councillor has already apologised for the action that was the subject of the complaint, and this is considered sufficient to dispose of the complaint; or
- (n) the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual councillor(s).

# PROTOCOL FOR COUNCILLOR/OFFICER RELATIONS

## 1. INTRODUCTION

- 1.1. This Protocol governs relations between Councillors and Officers.
- 1.2. Its purpose is to assist the smooth running of the work of the Council by:
  - promoting trust, openness, fairness and honesty by setting out some ground rules;
  - defining roles so as to:
    - be clear about responsibilities – who does what
    - avoid conflict, and
    - prevent duplication or omission
- 1.3. This Protocol applies to Councillors, Co-opted Members, and Officers. Unless the context indicates otherwise, Officer means a person employed by the Council, a person engaged directly by the Council to provide services or employed by an organisation that has contracted with the Council.
- 1.4. The Standards Committee will review the content and operation of this Protocol from time to time. Any Councillors or Officer suggestions for changes to it should be passed to the Monitoring Officer or Chief Executive who will bring them forward to the Standards Committee.
- 1.5. Councillors and Officers must follow this Protocol at all times.
- 1.6. Breaches of this Protocol by a Councillor may result in a complaint to the Council's Standards Committee.
- 1.7. Breaches by an Officer may lead to disciplinary action.

## 2. THE RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS

- 2.1. A recognition of, and respect for, the respective roles and responsibilities of Officers and Councillors is vital and mutual trust, respect and courtesy is key.

Councillors should:

1. respect Officers' professional integrity;
2. not involve Officers in any criticism of the position or conduct of other Councillors or Officers which is, or could be construed as being, of a personal or party political nature;
3. not apply pressure on Officers to:
  - (a) change their professional opinion or advice
  - (b) do anything which they are not empowered to do or which is against an Officer's professional judgment

- (c) take any action which the officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct, including professional codes of conduct
- 4. not do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for or on behalf of the Council;
- 5. in seeking advice and support, have due regard to the seniority of the Officer with whom they are dealing;
- 6. not purport to exercise line management control over an Officer or issue any formal instruction to an Officer;
- 7. not disclose at a meeting open to the press and public, by comment to the media or by any other means to any person outside the Council, personal or confidential information which relates to a Council employee, past or present, except with that employee's consent;
- 8. not comment publicly on individual staff issues or perceived capability of individual staff. This does not prevent Councillors from exercising their legitimate right to hold Officers to account at relevant Council meetings;
- 9. ensure that all communication between them and Officers, including written communication, does not bring the Council into disrepute, or lead to the breakdown of mutual trust, respect and courtesy in Officer/Councillor relations;
- 10. endeavour to give timely responses to enquiries from Officers;
- 11. avoid personal close familiarity with Officers.

Officers should:

- 1. respect the political perspective of Councillors;
- 2. co-operate with all reasonable requests from Councillors and endeavour to give timely responses to enquiries from Councillors;
- 3. not seek to take advantage of Councillors or to cause them embarrassment or difficulties in the performance of their roles;
- 4. not act to frustrate the proper political objectives of Councillors;
- 5. not seek to influence a Councillor to make a decision in their favour;
- 6. not discuss with a Councillor personal matters concerning themselves or another individual Officer. This does not prevent Officers raising on a personal basis and in their own time a matter with their Ward Councillor;
- 7. not make claims or allegations to Councillors about other Officers;
- 8. maintain confidentiality;
- 9. perform their duties effectively, efficiently and with political neutrality;
- 10. behave in a professional and courteous manner;
- 11. be helpful to Councillors and understand and respect their roles, workload and pressures;
- 12. avoid personal close familiarity with Councillors;

13. report to their manager, the Monitoring Officer or the Chief Executive should a Councillor put pressure on them to deal with a matter outside Council procedure or policy;
  14. comply with the current Codes and Protocols applicable to Officers;
- 2.2. All Councillors have the same rights and obligations in relationships with Officers and should be treated equally. Where a political group forms the majority Administration it is recognised that the relationship between Officers, particularly Senior Officers, and the Administration will differ from that with opposition groups. Officers must ensure that, even when they are predominantly supporting the Leader and Cabinet Portfolio Holders, that their political neutrality is not comprised.
  - 2.3. Councillors and Officers must be particularly aware of the image of the Council at meetings open to the public and should treat each other with respect and courtesy regardless of an individual's personal, political or professional views. Meetings require a degree of formality to be adopted, both in the conduct of business and in the manner in which participants are addressed in order to maintain public confidence.
  - 2.4. Councillors may make written/oral representations to the relevant Senior Officer about issues raised by Officers with them as their ward Councillor, but the Councillor must:
    - avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, because of actions of the Councillor(s) may be held to be the actions of the Council, as an "employer";
    - avoid taking a proactive part to represent or in any other way advocate on behalf of any such Officer in any staffing issues or disciplinary procedures brought by the Council against any such Officer.

### **3. OFFICER ADVICE TO POLITICAL GROUPS AND OTHER MEETINGS**

#### **Officer Advice to Political Groups**

- 3.1. Officers serve the Council as a whole and not exclusively any Political Group, combination of Groups or individual Councillor. Officers must treat Political Groups and individual Councillors in a fair and even handed manner.
- 3.2. There is statutory recognition of Political Groups. 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 formal Council body. Officers may on occasions be called upon to support and contribute to such deliberations by Political Groups but must at all times maintain a stance which is politically impartial. The support provided by Officers may range from a briefing meeting with a Chairman or Cabinet Portfolio Holder before a meeting, to a presentation to a Political Group meeting.
- 3.3. Any advice given to a Political Group or Councillor will be treated with the strictest of confidence by the Officers concerned and not be accessible to any

other Political Group(s). Factual information upon which any advice is based will be available to all Political Groups.

- 3.4. When Officer attendance is requested for Political Group meetings:
1. the request to attend a Political Group meeting must be made through the Chief Executive or appropriate Senior Officer (Director or above);
  2. such a request can only be made in relation to Council business not Party policies or business;
  3. at the meeting Officers will:-
    - (a) provide relevant information and advice on Council business only and not on matters which are purely of a party political nature and must at all times do so in a way which is politically impartial;
    - (b) normally leave during the deliberations of the Political Group on the issue – to avoid any appearance of impropriety or misunderstanding;
    - (c) respect the confidentiality of any Political Group discussion at which they are present; Councillors must not do anything which compromises or is likely to compromise Officers' impartiality. This must not prevent an Officer providing feedback to other Senior Officers as appropriate.
- 3.5. The duration of an Officer's attendance at a Political Group meeting will be at the discretion of the Group, but an Officer may leave at any time if they feel it is no longer appropriate to be there.
- 3.6. An Officer accepting an invitation to the meeting of one Political Group must not decline an invitation to advise another Group about the same matter. They must give substantially the same advice to each.
- 3.7. An Officer must be given the opportunity of verifying comments and advice attributed to them in any written record of a Political Group meeting.
- 3.8. No Councillor will refer in public or at meetings of the Council to advice or information given by Officers to a Political Group meeting.
- 3.9. Political Group meetings perform an important part in the preliminaries to Council decision-making. However, they are not formal decision-making bodies of the Council and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions.
- 3.10. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 3.11. The principles of this section apply to informal meetings of Cabinet.

#### **Officer Advice to Other Meetings**

- 3.12. Officers are available to attend meetings called under the arrangements set out in the Constitution and as specified in this Protocol. Other meetings such as area/community forums, public meetings, local meetings, consultations

arranged by Councillors are not official business meetings of the Council. Officers will not attend such other meetings unless authorised/agreed by the relevant Senior Officer.

#### **4. LOCAL WARD ISSUES**

- 4.1. To enable them to carry out their Ward role effectively, Councillors need to be fully informed about matters affecting their Ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep Ward Councillors informed, thus allowing Councillors to contribute to the decision-making process and develop their representative role.
- 4.2. This requirement is particularly important:
  - during the early stages of policy development, where practicable;
  - in relation to major or sensitive operational matters;
  - whenever any form of public consultation exercise is undertaken;
  - during an Overview and Scrutiny process.
- 4.3. When a public meeting is organised by Officers to consider a local issue, all the Councillors representing the Wards affected must be invited to attend the meeting. Similarly, when Officers undertake any form of consultation on a local issue, the Ward Councillors should be notified at the start of the exercise.
- 4.4. If Ward Councillors intend to arrange a public meeting on a matter concerning some aspect of the Council's work, they can invite a relevant Officer to attend if they so wish. Provided that the meeting has not been arranged on a party political basis an Officer may attend but is not obliged to do so and the meeting may be held in Council-owned premises.
- 4.5. Officers will not be able to attend such meetings in the immediate run-up to Council elections.
- 4.6. Officers must never be asked to attend Ward or Constituency Political Party meetings.
- 4.7. In seeking to deal with residents' queries or concerns, Councillors must not seek to place Officers under undue pressure to deal with their query in a way which circumvents the usual Council procedures. Officers may not be able to carry out the work required by Councillors in the requested timescale and may need to seek instructions from their managers. Corporate Customer response times apply.
- 4.8. If any of the Members of Parliament (MPs) are involved in a local issue, Officers may invite the MP, in addition to the Ward Councillors. If Officers consider this is not appropriate for any reason they may meet the MP separately.

#### **5. CORRESPONDENCE INCLUDING EMAILS**

- 5.1. Official correspondence written on behalf of the Council must normally be in the name of the relevant Officer rather than in the name of a Councillor. It may be appropriate in some circumstances, for example representations to a



Government Minister for letters to appear in the name of the appropriate Councillor, for example, the Leader – but this should be only in exceptional circumstances. Letters that, for example, set up meetings, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

- 5.2. The Chairman may correspond in their own name.
- 5.3. Correspondence which creates legally enforceable obligations or gives instructions on behalf of the Council must never be sent in the name of a Councillor.

## **6. IF THINGS SHOULD GO WRONG**

- 6.1. Councillors or Officers with questions about the implementation or interpretation of this Protocol should seek guidance from the Monitoring Officer.
- 6.2. If Councillors believe that an Officer has breached this Protocol or have concerns about the conduct, behaviour, or performance/capability of an Officer they should raise the matter direct with that Officer's manager or Director; where the Officer concerned is a Director the matter should be raised with the Chief Executive; and when the Officer is the Chief Executive, with the Monitoring Officer.
- 6.3. In all cases, the Officers with whom the concerns have been raised will report back to the Councillor concerned, giving as much information as they can as to the conclusions they have reached.
- 6.4. This procedure is only appropriate where their issues arise in the Councillor's capacity as a Member of the Council, rather than as a service user or individual affected by the Council's decision. In such cases their concerns should be dealt with in accordance with the Council's complaints procedure.
- 6.5. If Officers are concerned about the conduct of a Councillor they should raise the matter with their Manager or Director as appropriate. The Manager will discuss the matter with their Director, who will seek to resolve it to the Officer's satisfaction, in consultation with the Monitoring Officer, where appropriate. The aim of these discussions is to resolve the matter by conciliation, rather than by more formal means. Nevertheless, it must be recognised that Officers, like any members of the public, may make an allegation of a breach of the Code of Conduct for Councillors and can also use the procedures set out in the Council's Bullying and Harassment policy.
- 6.6. Where the concerns are about potential unlawful conduct of an Officer or Councillor, the Whistleblowing Policy or other Council policies may be relevant.

For further advice, please contact the Monitoring Officer, BCP Civic Centre, Bourne Avenue, Bournemouth BH2 6DY

## **Local Code of Best Practice relating to Planning Matters**

### **1. Introduction**

- 1.1. Bournemouth Christchurch and Poole (BCP) Council's Code of Conduct for Councillors provides guidance for elected Councillors about the high ethical standards expected of all those in public service. The Code of Conduct for Councillors is reproduced in Part 6 of the Council's Constitution.
- 1.2. The Council through its Planning Committee makes decisions on certain planning related applications as set out in the Constitution. The principles for making planning decisions are laid down in local and national planning policy, development plans and legislation. The Planning and Compulsory Purchase Act 2004 in conjunction with the Town and Country Planning Act 1990 requires decisions to be made in accordance with relevant adopted Plans unless there are material planning reasons not to do so. In many instances, it is necessary in making decisions to exercise a level of judgement on the issues. This can involve balancing conflicting elements and taking account of relevant replies to consultations with interested parties and representations made by the public.
- 1.3. This Local code of best practice for councillors and officers relating to planning matters applies to every councillor irrespective of whether or not they are a member of the Planning Committee. It also applies to all officers. It is supplemental to, and should be read in conjunction with, the Code of Conduct for Councillors.
- 1.4. The content of this Local code addresses various issues involved in decision making. The processes and procedures that it identifies should help ensure that the public have confidence that planning decisions are made in an impartial, open, transparent and fair manner, taking account of all the relevant information.

### **2. General conduct of councillors and officers**

- 2.1. Councillors and officers have different but complementary roles. This Code generally relates to all councillors but where it is more focused towards councillors appointed to the Planning Committee this is identified.
- 2.2. Councillors have a wide variety of roles and responsibilities. These include:
  - 2.2.1 being appointed to committees including Cabinet on which they make decisions relevant to a wide variety of different Council functions;
  - 2.2.2 playing an important part in community engagement; and
  - 2.2.3 being appointed to external bodies as trustees or directors.
- 2.3. Seven principles of public life have been identified as applying to all councillors and officers. These principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Further details of these principles are set out in the Code of Conduct for Councillors.

- 2.4. The Protocol for Councillor/Officer relations is a further document concerned with matters of conduct. It applies to both Councillors and Officers. A copy of it is reproduced in Part 6 of the Constitution.
- 2.5. Planning Officers must adhere to the Royal Town Planning Institute's Code of Conduct. Other specialist officers must comply with the requirements for conduct stipulated by their appropriate professional bodies. All Council staff must also comply with any relevant code of conduct for BCP Council employees.

### **3. The Planning application process**

#### **Pre-application discussions and meetings**

- 3.1. If a Councillor appointed to the Planning Committee intends to vote on a planning application and is involved in any communication or discussion with any member of the public they should:
  - 3.1.1 remain impartial;
  - 3.1.2 recognise that their role on Planning Committee is not one of negotiator; and
  - 3.1.3 seek to avoid discussion on any detail relating to the application unless an officer is present.

#### **Lobbying of Councillors / Discussions with Officers**

- 3.2. Lobbying is a normal part of the planning process. It can occur in a variety of different situations ranging from seeking to secure the allocation of a site in a Local Plan to a particular planning application. It can involve councillors with many different roles from those involved in decisions relating to the use of management of Council land to councillors on the Planning Committee who determine applications.
- 3.3. The early engagement of councillors in planning issues relating to a potential planning application can be a positive contributor to helping ensure the sustainable development of the area that meets the need of the community.
- 3.4. In some circumstances, meetings or presentations may be arranged in advance of a related planning decision being made by councillors. To avoid the perception that councillors may have predetermined any decision or fettered their discretion in such circumstances:
  - 3.4.1 there should always be an officer present at a planning related meeting or presentation arranged by officers with a record of the meeting taken including notes of issues raised and any advice given by officers. These should be kept on a relevant file.
  - 3.4.2 officers should normally seek to make clear in advance and / or at the start of any such meeting or presentation that no part of any discussion will bind the Council and any view expressed is provisional;

- 3.4.3 The nature of some meetings and presentations may provide a legitimate reason as to why it would need to be confidential. A record of the reason(s) for such confidentiality should be noted on the relevant file and notes relating to any non-confidential elements should be clearly identifiable.
- 3.5. Depending upon the nature of their work, officers may well also find themselves being approached by members of the public with regard to various planning decisions. In the case of Planning Officers for example, such approaches may be made by a wide range of parties with an interest in the matter including the applicant, agent, consultee, a supporter or an objector. Whenever this occurs, an officer should always consider the nature and likely content of any discussion and reflect on whether it is appropriate to make a note of what was discussed including, as part of any note, recording express details of the advice given / outcomes of any negotiation. In many cases, to try and avoid disagreement going forward, seeking to agree a note of such matters with the other attendees may well be a sensible way forward.

### **Lobbying of Councillors appointed to the Planning Committee**

- 3.6. Councillors on the Planning Committee are also likely to find themselves in various situations where members of the public including developers and other councillors seek to engage them on matters relating to a specific planning application. The general principles set out in clause 3.1 above are applicable to any circumstance when this might occur.
- 3.7. In addition, councillors appointed to the Planning Committee who intend to participate as a member of that Planning Committee in relation to an item should have regard to the following in relation to any such circumstance:
- 3.7.1 avoid saying anything that could give an indication that they have already made up his/her mind on an application and is no longer open to considering its merits;
  - 3.7.2 if any opinion is expressed, then make clear that it is a preliminary view only and a final decision will only be made when all relevant factual information is available at the time of the Planning Committee meeting. However, generally seek to limit any opinion to matters relating to procedure only;
  - 3.7.3 pass any written (including electronic) correspondence relating to a planning application of which the councillor is the main addressee (for an e-mail addressed to all members of the Planning Committee this will be the Chairman of the Planning Committee), as soon as reasonably practicable to the case officer dealing with that application for recording on the file and as appropriate forwarding to other members on the Planning Committee;
  - 3.7.4 especially take care if invited to attend any meeting or presentation relating to an application not arranged by officers and in particular considering seeking advice from the Monitoring Officer before deciding whether to attend a meeting that appears to be for the purpose of lobbying; and

- 3.7.5 consider whether any contact (including any meeting) relating to a planning application other than one arranged by officers might be seen as significant and if so, disclose such contact at the relevant Planning Committee meeting in advance of a decision being taken.

## **Lobbying by councillors**

- 3.8. As part of a councillor's role in representing their communities, ward councillors are likely to become involved in the decision making process relating to planning applications.
- 3.9. To the extent this involves a councillor discussing any individual planning related application with an officer, it can be very easy for the impression to be given that a councillor is using their position to influence progress relating to the matter. It is important that any such discussions are therefore open and transparent. Consequently, officers may well seek to take a note of any such communication.
- 3.10. A ward councillor who is not taking part in the determination of a planning application at Planning Committee can make representations on behalf of their ward, may attend Planning Committee and with the agreement of the Chairman of Planning Committee, address the Planning Committee in accordance with the Protocol on Public Speaking at Planning Committee. Any representations should relate to the planning merits of the application. When making representations as a ward councillor, the councillor should aim to make clear whether the opinion expressed is the view of the councillor or their constituents.
- 3.11. Councillors should avoid lobbying members of the Planning Committee and exerting undue pressure on planning officers in relation to any particular application.

## **4. Determining a Planning Application including Predetermination**

- 4.1. Many decisions on planning applications and other related matters are delegated to officers. Details of such delegations are set out in Part 3 of the Constitution.
- 4.2. Other applications not delegated to officers are determined by councillors sitting on Planning Committee. Every application considered by Planning Committee will be accompanied by a report that has been produced by Officers. Copies of committee reports are available for consideration in accordance with the Council's Access to Information Rules. These are produced in Part 4 of the Constitution.

## **Predetermination**

- 4.3. Every planning application should be determined having regard to all planning considerations that are relevant to it.
- 4.4. In the case of decisions by Planning Committee, the point in time when all relevant information will be available is the meeting of the Planning Committee at which an application is to be determined. Every councillor on the Planning

Committee should make their decision only after full consideration of the accompanying Officer report including its recommendation and having regard to all applicable information and discussion that takes place at the committee meeting.

- 4.5. If, prior to voting on a decision, a councillor on the Planning Committee fully commits themselves to a particular view on a planning application such that their mind is no longer open to considering the merits of the case that councillor should not take part in the item as a member of the Planning Committee.
- 4.6. This does not mean that a councillor cannot hold strong views about an application. In other words, a councillor can be predisposed towards a matter under discussion; however, that is not the same as having a closed mind.
- 4.7. In some cases, a councillor, including a member of the Planning Committee, may decide in advance of a Planning Committee meeting that they wish to commit themselves to a particular planning decision and seek to speak for or against it. This is not uncommon in the case of Ward Councillors. Councillors, including ward councillors, may request the opportunity to speak at a Planning Committee meeting. A member of the Planning Committee should make clear in advance of a meeting if this circumstance applies to them. In such a case, the member of the Planning Committee should also make their position clear at the start of the meeting, must not take part in discussion of the item as a member of the Planning Committee and must not vote on the item.

### **Membership of another local authority**

- 4.8. Some councillors who sit on Planning Committee may also be members of another tier of local government. Such councillors should have regard to the guidance on interests contained in this Code and the Councillor Code of Conduct. In particular, if those councillors take part in any debate on a development proposal at a Parish/Town Council meeting, they should consider adopting a practice at the time of such participation of making clear that the views they express are based on information available at that time and as a consequence their views might change in the light of further information that becomes available prior to a determination by the Planning Committee.
- 4.9. If in doubt, councillors are recommended to seek further advice from the Monitoring Officer.

### **Political Group Meetings**

- 4.10. As the point in time at which all information on a planning application will be available to councillors on a Planning Committee will be at the actual meeting of that committee, political group meetings in advance of the Planning Committee should not be used to determine how councillors should vote.
- 4.11. Further, since every planning application should be determined on its merits, the use of a party whip is not appropriate to seek to compel a member of the Planning Committee to vote in any particular way.

## **Applications by the Council or in respect of Council-owned land**

- 4.12. Any application submitted by the Council or involving land forming part of the red line area of a planning application which is owned by the Council shall be determined by the Planning Committee.

## **Applications by Councillors and Officers**

- 4.13. It is perfectly legitimate for a councillor or an officer to submit a planning application. However, to avoid any perceptions of impropriety the following should be applied to any such application.

4.13.1 Every application identified as submitted by or on behalf of a councillor or their spouse or civil partner in respect on any property (including land) in which they have a financial interest shall as provided for in Section 2, Part 3 of the Constitution be referred to the Planning Committee.

4.13.2 Every application identified as submitted by or on behalf of an officer working for the Council within its Planning Section or generally at Tier 3 or above at the time that the application is submitted or their spouse or civil partner shall as provided for in Section 2, Part 3 of the Constitution also be referred to the Planning Committee for determination.

4.13.3 An application from a councillor or officer will usually be identified as part of the registration process. However, councillors and officers to whom either of the two paragraphs above apply are encouraged to draw the fact that such an application has been submitted to the attention of both the Head of Planning (or any other Officer nominated by them) in writing and also the relevant case officer within twenty one days of the date of the application being submitted.

4.13.4 If an application is submitted by someone other than a councillor but relates to property (including land) in which the councillor has a legal interest, the councillor is also encouraged to provide such notification as identified above. This is in addition to any duty of disclosure the councillor may have for the purposes of the Councillor Code of Conduct. For the purpose of this code, the phrase “legal interest” means a legal interest registered at HM Land Registry in the name of the councillor.

4.13.5 No councillor or officer who submits or has a planning application submitted on behalf of themselves, their spouse or their civil partner should take part in handling the application on behalf of the Council or seek to use their position to influence the decision relating to that application. Councillors and officers should also be mindful of the need to consider potential conflicts arising in respect of applications by other family members and friends. If in doubt, advice should be sought from the Monitoring Officer.

4.13.6 No councillor or officer who acts as an agent for any person pursuing a planning matter with the Council should take part in handling the

application on behalf of the Council or seek to use their position to influence the decision relating to that application.

4.13.7 In considering the extent to which they can engage in any part of the process relating to a planning application including the consideration of that application at Planning Committee, a councillor should always have regard to the requirements of the Member Code of Conduct.

4.13.8 Where a councillor frequently declares an interest and therefore is unable to take part in the proper consideration of planning matters referred to the Planning Committee, the relevant political group should review the presence of that councillor on the Planning Committee with a view to replacing them with another councillor whose interests would not prevent them considering and deciding planning issues referred to the Committee.

## **Fraud Corruption and Bribery**

4.14. The Council, the Head of Paid Service and all its senior officers have a zero-tolerance commitment to issues of bribery and corruption.

4.15. Every councillor should inform the Monitoring Officer and every officer should report to their line manager or their Head of Service if any offer is made to them in relation to the exercise of any aspect of the Council's planning functions. Officers should also report to their line manager and councillors advise the Monitoring Officer of any matter that indicates a possible incidence of fraud, corruption or bribery.

## **Considering all relevant information**

4.16. It is important that every councillor's decision takes account of all relevant planning considerations including any relevant representations and consultation responses. Any councillor who is absent during any part of the Planning Committee's consideration of an application should not take any further part in the discussions on the application or vote on that application.

## **Site Visits**

4.17. Site visits will be arranged and managed in accordance with the protocol agreed by the BCP Planning Committee.

## **Decisions contrary to an officer recommendation**

4.18. If a councillor wishes to put forward a motion that a matter is dealt with contrary to an officer recommendation, that councillor should identify their reason(s) for refusal or approval including by reference to relevant Development Plan policies. In the case of a motion to approve, the councillor should also be aware that officers may seek clarification of any particular conditions / planning obligation that the councillor might wish to have imposed.



## **5. Training**

- 5.1. As part of their induction programme, all new councillors will be expected to attend training sessions that are made available to them for the purposes of providing an introduction to the planning system. Where the Head of Planning identifies it as necessary, additional training sessions will also be made available to councillors appointed to the Planning Committee. Examples of this might include the introduction of new significant legislation. Councillors on Planning Committee are expected to make all reasonable efforts to attend such training. A councillor who is unable to attend such training will normally be expected to seek advice as to whether such training or information on its content can be made available to them separately. Democratic Services Unit will aim to keep a record of councillor attendance at training. Details of any councillor who fails to engage in planning training that is made available will be drawn to the attention of the relevant group leader.

## **Planning Committee - Site Visit Protocol**

### **1. Purpose of the site visit**

- 1.1. It is presumed that members of the Planning Committee will have familiarised themselves with the location and context of an application to be considered, in so far as this can be done from adjacent roads and public spaces and the relevant officer report to the Planning Committee.
- 1.2. In exceptional cases (such as the impact of the proposal is difficult to visualize from the plans and any supporting material, including photographs, as being unable to see the site from a public vantage point, or that there are other substantial benefits in carrying out a site visit), members of the Committee may suggest that the Planning Committee visit the site, or adjoining sites if relevant.

### **2. How decisions on a site visit are reached**

- 2.1. Where prior to the Committee, and following release of the Planning Committee agenda papers, members of the Committee consider that exceptionally a site visit of the Planning Committee is necessary such requests should be made to Democratic Services prior to Chairman's briefing. At the briefing the Chairman, in consultation with officers, will consider whether this exceptional case is made, or alternatively seek further visual information from the officers to support the Committee in the absence of a formal Planning Committee site visit.
- 2.2. Where a site visit has not occurred prior to the Planning Committee meeting members of the Planning Committee can during the debate seek to adjourn or defer the decision on any given application until a site visit of the Planning Committee is arranged. In these cases, members of the Planning Committee will need to clearly set out firstly why a site visit is considered necessary when this was not identified prior to the Planning Committee meeting and secondly whether an adjournment or deferral can allow for officers to source additional information that would negate the need for a site visit.
- 2.3. The site visit by members of the Planning Committee forms part of the Planning Committee process, allowing Planning Committee members to view the site and where appropriate adjoining properties.

### **3. Arranging the Visit**

- 3.1. Where a site visit has been agreed to be undertaken following the Chairman's briefing this will be arranged to precede the Planning Committee and a schedule for the visit will be agreed between the Chairman and officers. This will identify the timetable for the meeting and invited attendees.
- 3.2. Planning Services will then notify the applicant or their agent of the time and date of the proposed site visit and seek their authority for Members of the Planning Committee, Ward Councillors and officers to visit the site, where this cannot be achieved from a public point of access. Where the application site is on private land, the applicant or agent will be requested to be in attendance only to facilitate access.
- 3.3. All members of the Planning Committee will be invited to attend the site visit.

- 3.4. On occasion, officers of other services such as Transportation Services will be invited to attend a site visit to clarify factual matters.
- 3.5. Councillors have no right of entry to private land except by permission of the owner and they should not enter a private site until all are present and an officer has made contact on the site visit with the landowner/operator/applicant.
- 3.6. In the unlikely event that the landowner will not give permission to enter a private site, the site will have to be viewed from the public highway or from other adjacent land with the owner's permission.
- 3.7. Where the Planning Committee adjourn or defer the decision on the application until a site visit is arranged any visit will be organised immediately prior to the next Planning Committee in accordance with the above criteria.

#### **4. Conduct of the Visit**

- 4.1. The purpose of the site visit is to enable members of the Planning Committee to familiarise themselves with the site and its surroundings in order to understand the issues more clearly when considering the application at the Planning Committee. It is presumed that members of the Planning Committee will have familiarised themselves prior to the site visit with the location and context of an application to be considered, in so far as this can be done from adjacent roads and public spaces and the relevant officer report to the Planning Committee.
- 4.2. Whilst it may be necessary for an applicant or his agent to be present on the site (e.g. to provide access or for safety reasons), discussions with the applicant or their agent or any third party (including Ward Councillors and other Councillors) should be avoided and they will be advised that lobbying of members of the Planning Committee is unacceptable. Presentations by applicants will not be permitted.
- 4.3. As the site visit is part of the process of the Planning Committee considering an application, it is chaired by the Chairman and formally opened and closed. This will provide clarity as to when the site visit has formally commenced. Until the Chairman closes the site visit this protocol and procedures will be adhered to.
- 4.4. At the request of the Chairman, the planning officer will describe the application to the assembled Councillors and display appropriate plans or drawings of the proposal. (It is expected that Councillors will already be familiar with the planning officer's report) The planning officer will indicate matters of fact in relation to the proposal and surrounding land, which will be material once the proposal, is debated.
- 4.5. Questions from Planning Committee members should be addressed to the planning officer and be of a factual nature, for example distances to adjoining or objectors' properties or the landscape features to be retained. If during the site visit it is necessary to seek information from the applicant or agent, at the discretion of the Chairman an officer will undertake this.
- 4.6. At no time during the site visit should Councillors debate or comment on the planning merits or otherwise of a proposal.

- 4.7. The role of the Ward Councillors (if not a member of the Planning Committee) will be limited to drawing attention to features of the site that he/she considers relevant to the committee in understanding the site, its surroundings and the proposal. The Councillors will not be permitted to make representations on the merits or otherwise of the application.
- 4.8. If members of the public attend the site visit they can only be allowed on the land with the permission of the land owner. Presentation or lobbying by members of the public will not be permitted.

## **5. General**

- 5.1. Members of the Planning Committee should keep together, and it is essential that they should not allow themselves to be lobbied by anyone or enter into a discussion about the application or express any opinion about the application.
- 5.2. Members of the Planning Committee should ensure that they have seen all aspects of the site suggested by the accompanying officer or the Chairman during the visit.
- 5.3. The Planning Committee will not make any formal decision at the site visit and no individual member of the Planning Committee should express a view of the merits of the application during the site visit.
- 5.4. The application will usually be one of the first items on the Agenda of the following Planning Committee meeting where the merits of the application will be debated.
- 5.5. Where it is considered that a site visit is necessary it is essential that all members of the Planning Committee are present and where members of the Planning Committee are unable to attend the site visit they will be unable to take part in the debate or vote on the application.
- 5.6. The decision of the Chairman, (in consultation with the planning officer where appropriate), on all matters concerning site visit protocol is final.

## **6. Record of the Visit**

- 6.1. A record of the visit will be made by an officer and retained on the planning application file. The record will include the timetable for the meeting, attendees and what was viewed on site.

## **7. Notes:**

- 7.1. Officers will identify relevant health and safety issues for all site visits. All health and safety instructions, as issued by the site owner/operator must be strictly followed.
- 7.2. Where appropriate, protective clothing e.g. high visibility jackets, hard hats will be provided for Councillors on arrival at the site. Councillors should, however, be aware of the need to wear appropriate footwear.
- 7.3. In the interests of sustainability and highway safety, car-sharing will be available, and members are encouraged to make use of this.

- 7.4. If a Councillor attending the site visit has special access requirements or wishes the Committee to visit other addresses (eg. an objector's home), early notification to the case officer will allow arrangements to be made.

Adopted by the Planning Committee on 30 May 2019

# Licensing Committee and Sub Committee – Protocol for Public Speaking

## 1. Introduction

- 1.1. The following protocol for public speaking shall apply in respect of hearings under the Licensing Act 2003, the Gambling Act 2005, and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009).
- 1.2. This includes applications relating to the licensing of alcohol, regulated entertainment, late night refreshment, gambling, and sex establishments, Hackney Carriage and Private Hire vehicles, which are the responsibility of the Licensing Committee/Sub Committee to determine as set out in Part 3.3 of the Council's Constitution.
  1. The Chair welcomes everyone to the hearing, identifies all parties present and makes introductions.
  2. Matters of general housekeeping are dealt with, eg location of fire exits and toilets, fire alarms, notification that the hearing may be recorded, reminder to switch mobile phones to silent.
  3. All persons who have given notice of their intention to speak are identified.
  4. Identify if any person who wishes to withdraw a representation or wishes not to speak
  5. Chair explains proposed procedure and order of speaking for hearing as set out in Appendix A. All parties confirm agreement or make representations on procedure proposed.
  6. Licensing Officer's report is presented.
  7. Parties present their representations in the order agreed.
  8. Parties who are speaking should not repeat the information which they have already given in writing in their representation. They will be able to expand on the written information given, provided the information remains relevant. Any addition information should be limited to the grounds of their representation(s). For example, if they are objecting on the grounds of Public Nuisance, then they should confine their comments to matters relating to Public Nuisance.
  9. Members of the Licensing Committee or Sub Committee may ask questions after each representation and at the end of all representations. Parties, will be allowed to ask questions through the Chair.
  10. Following representations, the parties will be given the opportunity to sum up. Party who spoke first to go last.
  11. Members will deliberate in private with the clerk and legal representative as appropriate present.

12. The decision will be taken by the Committee and that decision delivered by the Chair to all parties at the conclusion of the hearing as appropriate. A written decision notice will be issued following the hearing in accordance with the regulations.
13. The Legal Adviser will advise the parties of any right of appeal as appropriate.

## **2. General points**

- The hearing may be adjourned at any time at the discretion of the Members
  - Members may amend the procedure at any time if they consider it to be in the public interest or in the interest of a fair hearing
  - Licensing Hearings are held in public. However, the Chair may exclude members of the public (including a party to the Hearing) from all or part of a Hearing where it considers the public interest in doing so, outweighs the public interest in the Hearing.
  - The Chair may exclude any person from a hearing for being disruptive.
  - Meetings of the Licensing Committee in public session are audio recorded by the Council for subsequent publication on its website. The meeting may also be audio recorded and/or filmed for live or subsequent broadcast by members of the public and media representatives.
  - The hearing will take the form of a discussion.
  - Only persons (or their representatives) who have made an application, are subject to an application or have submitted a written representation to the Licensing Authority under the relevant Act are permitted to speak at the hearing.
  - Any further information to support an application or a representation must be submitted at least 5 working days prior to the Hearing. Any submissions submitted less than 24 hours before the hearing must be agreed by all parties at the Hearing, before it can be considered
  - If a party has informed the Authority that he does not intend to attend, or be represented at the hearing, or has failed to advise whether he intends to attend or not, the hearing may proceed in his absence
- 2.2. For other matters in Part 3.3 of the Council's Constitution which are the responsibility of the Licensing Committee, the procedures set out in Appendix 6 of the Council's Constitution in relation to public questions, statements and petitions shall apply.
  - 2.3. This includes such matters as making recommendations on relevant policies, approving the level of fees charged by the Council, and making decisions on tariffs charged by the Public Carriage Trade.

- 2.4. The Council's Constitution can be accessed using the following link:  
<https://democracy.bcpccouncil.gov.uk/ieListDocuments.aspx?Cld=151&Mld=3671&Ver=4&Info=1>
- 2.5. For further information please contact [democraticservices@bcpcouncil.gov.uk](mailto:democraticservices@bcpcouncil.gov.uk)



## **Proposed procedure and order of speaking for Licensing Act 2003 hearings**

- The Licensing Officer/Other Council Officer presents report
- Applicant will make their Application
- Questions of the Applicant by all parties, Members of the Committee/Sub-Committee to go first
- Responsible Authorities and Other Persons will make their representations.
- Questions of the Responsible Authorities and Other Persons. Members of the Committee/Sub-Committee to go first.
- All parties will be given an opportunity to sum up (with the party who spoke last to go first).
- Sub-Committee will deliberate in private with Legal Adviser and Clerk present. Councillors new to Licensing may observe but will not take part in the decision making)
- Sub-Committee will return, and the Chair will announce the decision if appropriate (a written decision notice will be issued following the hearing in accordance with the regulations).
- The Legal Adviser will advise parties of any right of appeal as appropriate.

## **Licensing Committee and Sub Committee - Protocol for Public Representation at Virtual Meetings**

### **1. Introduction**

- 1.1. The existing protocol for public speaking has been adapted to apply in respect of virtual hearings under the Licensing Act 2003, the Gambling Act 2005, and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009).
- 1.2. It has been amended in accordance with Article 16 of the Council's Constitution: Covid-19 Interim Decision Making Arrangements, and the requirements of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.
- 1.3. This includes applications relating to the licensing of alcohol, regulated entertainment, late night refreshment, gambling, and sex establishments, Hackney Carriage and Private Hire vehicles, which are the responsibility of the Licensing Committee/Sub Committee to determine as set out in Part 3.3 of the Council's Constitution.
  1. The Chair welcomes everyone, matters of general housekeeping are dealt with, notification that the hearing may be recorded for live and subsequent broadcast on the Council's website, reminder to switch mobile phones to silent, principles for managing formal skype meetings.
  2. The Chair identifies all parties present and makes introductions.
  3. Matters of general housekeeping are dealt with, notification that the hearing may be recorded for live and subsequent broadcast on the Council's website, reminder to switch mobile phones to silent.
  4. All persons who have given notice of their intention to speak are identified.
  5. Identify if any person who wishes to withdraw a representation or wishes not to speak
  6. Chair explains proposed procedure and order of speaking for hearing as set out in Appendix A. All parties confirm agreement or make representations on procedure proposed.
  7. Licensing Officer's report is presented.
  8. Parties present their representations in the order agreed.
  9. Parties who are speaking should not repeat the information which they have already given in writing in their representation. They will be able to expand on the written information given, provided the information remains relevant. Any addition information should be limited to the grounds of their representation(s). For example, if they are objecting on

the grounds of Public Nuisance, then they should confine their comments to matters relating to Public Nuisance.

10. Members of the Licensing Committee or Sub Committee may ask questions after each representation and at the end of all representations. Parties, will be allowed to ask questions through the Chair.
11. Following representations, the parties will be given the opportunity to sum up. Party who spoke first to go last. The hearing will then conclude.
12. Members will deliberate in private with the clerk and legal representative as appropriate present.
13. The decision will be taken by the Committee and notification of the decision will be given within the period of five working days beginning with the day or the last day on which the hearing was held in accordance with the regulations. The notification of decision will include information about the right of appeal as appropriate.
14. The Legal Advisor will advise the parties of any right of appeal as appropriate at the conclusion of the hearing.

## **2. General points**

- The hearing may be adjourned at any time at the discretion of the Members
- Members may amend the procedure at any time if they consider it to be in the public interest or in the interest of a fair hearing
- The Sub Committee may decide to conduct all or part of a hearing in non public session where it considers the public interest in doing so, outweighs the public interest in the hearing.
- The Chair may exclude any person from a hearing for being disruptive.
- Meetings of the Licensing Committee in public session are recorded by the Council for live and subsequent broadcast on its website.
- The hearing will take the form of a discussion.
- Only persons (or their representatives) who have made an application, are subject to an application or have submitted a written representation to the Licensing Authority under the relevant Act are permitted to speak at the hearing.
- Any further information to support an application or a representation must be submitted at least 5 working days prior to the Hearing. Any submissions submitted less than 24 hours before the hearing must be agreed by all parties at the Hearing, before it can be considered
- If a party has informed the Authority that he does not intend to participate, or be represented at the hearing, or has failed to advise whether he intends to participate or not, the hearing may proceed in his absence

- 2.2. For other matters in Part 3.3 of the Council's Constitution which are the responsibility of the Licensing Committee, the procedures set out in Appendix 6 of the Council's Constitution in relation to public questions, statements and petitions as amended by Article 16: Covid-19 Interim Decision Making Arrangements and the provisions in The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 shall apply.
- 2.3. This includes such matters as making recommendations on relevant policies, approving the level of fees charged by the Council, and making decisions on tariffs charged by the Public Carriage Trade.
- 2.4. The Council's Constitution can be accessed using the following link:  
<https://democracy.bcpccouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>
- 2.5. For further information please contact [democraticservices@bcpcouncil.gov.uk](mailto:democraticservices@bcpcouncil.gov.uk)

## **Proposed procedure and order of speaking for virtual hearings**

- The Licensing Officer/Other Council Officer presents report
- Applicant will make their Application
- Questions of the Applicant by all parties, Members of the Committee/Sub-Committee to go first
- Responsible Authorities and Other Persons will make their representations.
- Questions of the Responsible Authorities and Other Persons. Members of the Committee/Sub-Committee to go first.
- All parties will be given an opportunity to sum up (with the party who spoke last to go first). The hearing will then conclude.
- Sub-Committee will deliberate in private with Legal Adviser and Clerk present. (Councillors new to Licensing may observe but will not take part in the decision making).
- Notification of the Sub Committee's decision will be given within the period of five working days beginning with the day or the last day on which the hearing was held in accordance with the regulations. The notification of decision will include information about the right of appeal as appropriate.
- The Legal Adviser will advise parties of any right of appeal as appropriate at the conclusion of the hearing.

# Licensing Committee and Sub-Committee - Site Visit Protocol

## 1. When this Protocol applies

- 1.1. The protocol applies to the Licensing Committee and its Sub Committees in undertaking the functions set out in Part 3 of the Council's Constitution: <https://democracy.bcpccouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>
- 1.2. (Note: The term 'Sub-Committee' is used throughout the protocol for ease of reading, the protocol applies to any Committee or Sub-Committee arranged to consider a matter)

## 2. Purpose of the site visit

- 2.1. Site visits are generally unnecessary and should only be required in exceptional circumstances, as a fact-finding exercise where a visit would provide substantial benefit in the consideration of an application, and where one or more of the following criteria are met:
  - The impact of an application is difficult to visualise from the information provided in the report and any supporting material.
  - The internal layout of a premises is difficult to assess from the information provided in the report and any supporting material.
  - Where relevant factors cannot be fully ascertained from any supporting information or the plans submitted to the Licensing Officer and available at the hearing, to members' satisfaction.
  - Site Inspections by the sub-committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to the decision.
- 2.2. Visual material in the form of photographs or video presentation should be requested in the first instance as this may overcome the need for a site visit.

## 3. Requesting and agreeing a site visit

- 3.1. Where prior to the meeting, and following publication of the agenda and reports, a member of a Sub-Committee considers that exceptionally a site visit is necessary they should first contact the Licensing Officer to discuss their concerns to see if additional information can be requested from parties to address the issues raised. Following this, if the member still considers a site visit is necessary they should submit the request in writing to the Licensing Officer and explain the exceptional circumstances. The Licensing Officer shall consult with the other members of the Sub-Committee to seek their agreement (unanimous or majority decision required).
- 3.2. The Licensing Officer may also recommend that a Sub-Committee undertake a site visit by exception prior to the hearing. The Licensing Officer shall consult

the members of the Sub Committee to explain the exceptional circumstances and seek their agreement (unanimous or majority decision required).

- 3.3. Should a Sub-Committee agree that a site visit is justified the reasons for this should be recorded and conveyed in writing by the Licensing Officer to all parties.
- 3.4. Members of a Sub-Committee may adjourn or defer consideration of an application at a hearing in exceptional circumstances to undertake a site visit. Members should be mindful of the delay caused and should give reasons why the site visit is now considered necessary when it was not identified as needed prior to the meeting. Consideration should also be given to whether an adjournment or deferral can allow officers to source additional information that would overcome the need for a site visit.

#### **4. Arranging the Visit**

- 4.1. The date and time of a site visit shall be agreed in consultation with Members of a Sub-Committee and the landowner/operator/applicant as appropriate.
- 4.2. All parties will be notified of the date and time of the site visit by the Licensing Officer.
- 4.3. The Licensing Officer will liaise with the landowner/operator/applicant to make arrangements for the Sub-Committee to view the premises as required, where this cannot be done from a public point of access.
- 4.4. Members of the Sub-Committee and other parties have no right of entry to private land except by permission of the owner and they should not enter a private site until all are present and a Licensing Officer has made contact on site with the landowner/operator/ applicant. In the unlikely event that the permission is not given to enter a private site, the site will have to be viewed from the public highway or from other adjacent land with the owner's permission.

#### **5. Conduct of the Visit**

- 5.1. The Sub-Committee shall conduct the visit as a group and should avoid being separated at any time. The Sub-Committee shall be accompanied by a Licensing Officer at all times.
- 5.2. The Licensing Officer shall provide an introductory briefing, outlining the purpose of the site visit, which is to establish matters of fact relating only to the reasons given for the visit being necessary. It should be made clear that formal consideration and determination of the application shall take place at the appropriate hearing.
- 5.3. Questions from members of the Sub-Committee should be addressed to the Licensing Officer and be of a factual nature. If during the site visit it is necessary to seek information from the applicant or other party present, this should be done through the Licensing Officer who will undertake this and provide a response.

- 5.4. At no time during the site visit should the Sub-Committee debate or comment on the merits or otherwise of an application, or be drawn into discussions with the applicant or any other party.
- 5.5. No representations from the applicant or any other party shall be received on the site visit. All parties will be advised that lobbying of members of the Sub-Committee is not permitted.
- 5.6. Members of the Sub-Committee shall not accept any refreshments on the premises or any other form of hospitality or gift.
- 5.7. All members of the Sub-Committee hearing the application are required to attend the visit to be able to participate at the formal hearing.

## **6. Record of the Visit**

- 6.1. A record of the visit will be made, to include details of attendees, what was viewed, questions asked, and responses provided. This information shall be repeated at the subsequent hearing if required for the benefit of any party not present at the site visit.

## **7. General**

- 7.1. The Licensing Officer will identify relevant health and safety issues for all site visits. All health and safety instructions, as issued by the site owner/operator must be strictly followed.
- 7.2. Where appropriate, protective clothing e.g. high visibility jackets, hard hats will be provided on arrival at the site. Members of the Sub-Committee should wear appropriate clothing and footwear.
- 7.3. Members of the Sub-Committee are responsible for making their own travelling arrangements to and from site visits and are encouraged to do so by car share or other sustainable means.
- 7.4. If anyone attending the site visit has special access requirements the Licensing Officer should be notified at the earliest opportunity to allow arrangements to be made.

Adopted by the Licensing Committee on 18 December 2019