

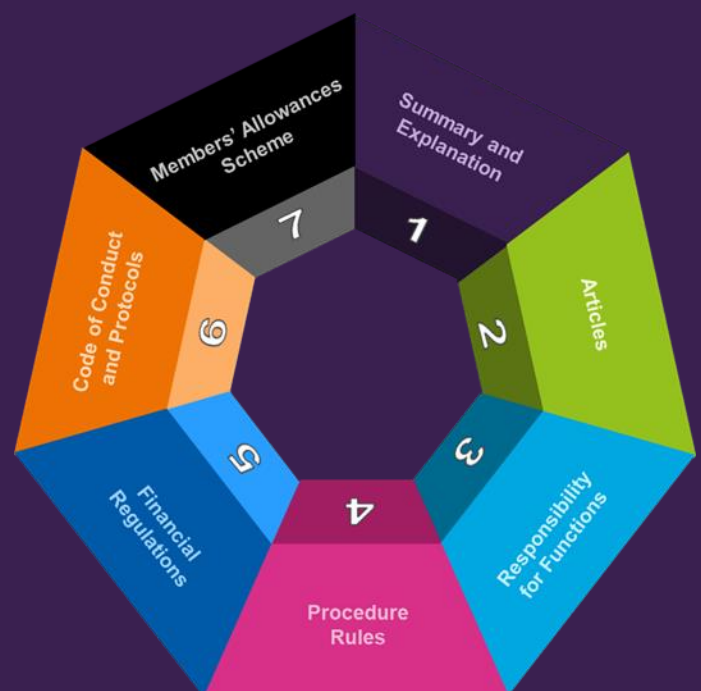


# CONSTITUTION

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## Law and Governance

Effective date 1 April 2025



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# PART 1

## SUMMARY AND EXPLANATION

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

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 Councillor/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 area-based Planning Committees 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.

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# PART 2

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# **Article 1 - The Constitution**

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

- 1.1.1. 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.
- 1.1.1. The Council's Constitution does not contain references to all legislative provisions. Should there be any provision in this Constitution which is at variance to any legislative or legal requirement, the relevant provision shall take precedence over 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. The arrangements for dealing with allegations of breach of the Code of Conduct for Councillors is set out in Schedule 1 to Part 6 of this Constitution.

### **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 four types of Council meeting:

- a) the Annual Meeting;
- b) Ordinary Meetings;

- c) A Budget Meeting; and
- d) 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 and a Budget 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

4.3.2. The Order of Business at Budget Council shall be:-

1. Apologies
2. Declarations of Interest
3. Confirmation of Minutes
4. Announcements and Introductions from the Chairman
5. Public Issues (Questions, Statements and Petitions) – these must address the business on the agenda in so far as it may relate to the setting of the budget for the coming financial year:-
  - i. Revenue budget (including fees and charges and Housing Revenue Account estimates)
  - ii. Capital programme
6. To agree the Revenue budget (including fees and charges and Housing Revenue Account estimates) and the Capital Programme
7. To agree Council Tax resolution for the coming year based on the above agreed budget

8. To consider and determine the Cabinet's recommendations in relation to Treasury Management Statement and Prudential Indicators, as necessary
9. To consider any other business set out in the notice convening the meeting
10. To consider any business, brought before the Council by the Chairman on the grounds of urgency in accordance with s100B(4) Local Government Act 1972

#### **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 Chair 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 Board and 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 Board and Committees

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

### 6.3. Current Overview and Scrutiny Bodies

6.3.1. There shall be four Overview and Scrutiny bodies:

- a) **Overview and Scrutiny Board** which shall comprise of 13 Councillors meeting twelve 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 five times each year;
- c) **Children’s Services Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting five times each year; and
- d) **Environment and Place Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting five times each year.

### 6.4. Membership

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



- 6.4.2. Lead Members of the Cabinet may not be a member of Overview and Scrutiny Board or Committees.
- 6.4.3. The Chair and Vice-Chair of the Audit and Governance Committee may not be a member of any Overview and Scrutiny Board or Committee. This will maintain independence between the two functions of audit and scrutiny, in line with good practice.
- 6.4.4. 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. Children's 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.
- 6.7.3. The Children's Services Overview and Scrutiny Committee may also co-opt on to the Committee two representatives of The Youth Parliament and, although they will not be entitled to vote, will ensure that their significant contribution to the work of the Committee is recognised and valued.

## **6.8. Environment and Place Overview and Scrutiny Committee**

- 6.8.1. The Environment and Place Overview and Scrutiny Committee may co-opt on to the Committee two independent non-voting members. The selection and recruitment process shall be determined by the Environment and Place Overview and Scrutiny Committee.

## 6.9. Conduct of Overview and Scrutiny Board and Committee meetings

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

## 6.10. Commissioned Work

6.10.1. In addition to committee meetings, the Overview and Scrutiny Board and 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. The Board and each Committee is limited to one commission at a time to ensure availability of resources.

- a) **Working Groups** – a small group of Councillors and Officers gathered to consider a specific issue and report back to a full meeting of the Board or 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 Board or Committee's work for ongoing, in-depth monitoring. May be time limited or be required as a long-standing sub-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 Board or committee on its findings. A main Board or 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 / Informal Consultative Groups**

### **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) **Western BCP Planning Committee** – consisting of 11 Councillors;
- b) **Eastern BCP Planning Committee** – consisting of 11 Councillors;
- c) **Licensing Committee** – consisting of 14 Councillors;
- d) **Standards Committee** – consisting of 7 Councillors;
- e) **Appeals Committee** – consisting of 7 Councillors;
- f) **Audit and Governance Committee** – consisting of 9 Councillors; and
- g) **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. Informal Consultative Groups**

The Council may establish informal advisory groups which shall not have any power to make decisions. The groups may be consulted on matters within the terms of reference approved by Council and as set out within Part 3 of this Constitution.

## **8.4. Training Requirements**

No councillor shall sit as a member or, where applicable, as a substitute member of the following bodies unless they have received appropriate training provided for this purpose.

- a) Western BCP Planning Committee;
- b) Eastern BCP Planning Committee;
- c) Licensing Committee;
- d) Appeals Committee;
- e) Transportation Advisory Group.

## **8.5. 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;
- i) make the decision public unless there are good reasons for it not to be; and
- j) take into account the Council's statutory duties and responsibilities relating to counter-terrorism, prevention of violent extremism and the Prevent channel.

### **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 13.5.3 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.

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# PART 3

## RESPONSIBILITY FOR FUNCTIONS AND OFFICER SCHEME OF DELEGATION

See Part 5 for Financial Delegations

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## 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;
  - 1.1.7. Housing Strategy;
  - 1.1.8. Corporate Plan; and
  - 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 Committees**

**Western BCP and Eastern BCP Planning Committee comprising the following**

### **Western BCP Planning Committee**

Alderney & Bourne Valley  
 Bearwood & Merley  
 Broadstone  
 Canford Cliffs  
 Canford Heath  
 Creekmoor  
 Hamworthy  
 Kinson  
 Newtown & Heatherlands  
 Oakdale  
 Parkstone  
 Penn Hill  
 Poole Town  
 Redhill & Northbourne  
 Talbot & Branksome Woods  
 Westbourne & West Cliff

### **East BCP Planning Committee**

Boscombe East & Pokesdown  
 Boscombe West  
 Bournemouth Central  
 Burton & Grange  
 Christchurch Town  
 Commons  
 East Cliff & Springbourne  
 East Southbourne & Tuckton  
 Highcliffe & Walkford  
 Littledown & Iford  
 Moordown  
 Mudeford, Stanpit & West Highcliffe  
 Muscliff & Strouden Park  
 Queen's Park  
 Wallisdown & Winton West  
 West Southbourne  
 Winton East

- 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 respective area Planning Committee.
- 2.2. For the avoidance of doubt, applications falling within more than one Committee area shall be determined by the Committee in whose area contains the greater proportion of land within the red line application site boundary. In the event that the area within the red line application site boundary falls equally between the two committees, the relevant Chief Officer with responsibility for Planning (or any person nominated by them for such a purpose) shall determine, in consultation with both chairs, and having regard to the location of any impacts of the proposal that the Chief Officer (or any person nominated

by them for such purpose) considers relevant, to which of the two committees the report relating to the application will be taken for the determination to be made.

2.3. The Planning Committees have responsibility to determine the following:

- 2.3.1. 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;
- 2.3.2. 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 2.3.2 a) and b); or
  - d) for any property or land in which they have a financial interest;
- 2.3.3. applications referred to the respective 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 for reserved matters where the outline planning permission was granted by Planning Committee unless the Planning Committee have expressly requested (when determining applications for outline planning permission) that the subsequent reserved matters should not be referred to Planning Committee for determination;
  - c) applications with a major economic impact;
  - d) applications by or on behalf of a planning Officer who has recently left the organisation; and/or
  - e) applications that the Head of Planning Operations considers are potentially contentious and raise material planning issues, have a finely balanced Officer recommendation or would affect the wider public interest;
- 2.3.4. applications where the Council is the applicant or landowner and subject to 10 or more representations from third parties provided that to count toward that number, a representation must fulfil the criteria under paragraph 2.3.8, and are not an application listed under paragraph 2.3.7(c);
- 2.3.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;

- 2.3.6. 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;
- 2.3.7. an application which a Councillor requests should be referred to the Planning Committee ("Councillor Call-In") provided that all of the following criteria are met:
- a) in the opinion of the Councillor making the request, the application raises material planning issues that affect part or all of their ward or would affect the wider public interest that would warrant debate and consideration by a planning committee; and
  - b) the request is in accordance with the local planning authority's agreed call-in protocol (as set out at paragraphs 2.6 and 2.7 to this Part 3A); and
  - 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 (S96 applications)
    - v. applications other than "major", "minor" and "householder".
- 2.3.8. applications where there have been 20 or more representations from third parties provided that to count toward that number, a representation must:
- a) identify on the representation that it has come from a residence which is believed by the case officer (at the time of deciding whether the matter needs to go to Planning Committee) to be within one mile of any point measured from the relevant application site red line boundary;
  - b) be received by the Council within the initial or any subsequent representation period as identified on the posted planning site notice relating to that application or any other related representation period provided by the Council if no planning site notice is posted;
  - c) identify one or more issues that the case officer considers to be of material planning relevance to the application to which it relates;
  - d) not have been withdrawn by the person making the representation prior to the time of deciding whether the matter needs to go to Planning Committee;
  - e) be contrary to the intended case officer recommendation; and

- f) provided that any additional representation from the same residence may be counted if in the opinion of the relevant senior planning officer in consultation with the relevant Chair of Planning it raises any different relevant material planning issues to those already contained in other representations from that residence.
- 2.4. The Planning Committees have power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.
- 2.5. In addition to the powers identified above, the Planning Committees have the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.
- 2.6. The requirement of the call-in protocol referred to at 2.3.7 above are as follows:
  - 2.6.1. the request is submitted on the latest Planning Committee Referral Form produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted Planning Committee Referral Form have been completed. This includes setting out:
    - a) planning reasons that the Councillor considers are material to the application that justify the referral;
    - b) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application would affect the wider public interest and should be considered by planning committee; and
    - c) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and
  - 2.6.2. the completed Planning Committee Referral Form:
    - a) has been submitted by the Councillor making the request by email and received in the inbox of both the case officer and the relevant office inbox as follows:
      - i. an application where the application site is wholly or partly in the former Bournemouth Council area - [planning.bournemouth@bpcouncil.gov.uk](mailto:planning.bournemouth@bpcouncil.gov.uk);
      - ii. an application where the application site is wholly or partly in the former Christchurch Council area - [planning.christchurch@bpcouncil.gov.uk](mailto:planning.christchurch@bpcouncil.gov.uk);

- iii. an application where the application site is wholly or partly in the former Poole Council area  
planning.poole@bcpcouncil.gov.uk,
- iv. or any other inbox notified to Councillors for this specific purpose

(N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and

- b) is received no later than 4pm on the seventh calendar day after the initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

## 2.7. With regard to the Councillor Call-In:

- 2.7.1. a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;
- 2.7.2. a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.6.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and
- 2.7.3. in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in paragraph 2.5 above) at any time thereafter be made by officers under delegated powers.

- 2.8. For the avoidance of doubt, for the purposes of the 20 representation process identified in 2.3.8 above, a representation that identifies more than one name on it (including a petition) shall only be counted as one representation in calculating whether the 20 representation trigger has been reached.

## 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.
- 3.2.5. determining any matter arising in relation to any Licensing Function where that matter has been expressly referred to the Licensing Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Scheme of Delegation to Officers.

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

### **Interpretation**

- 4.1. In this section (4) any references to ‘committees’ includes ‘committees and boards’ unless otherwise stated.

### **Overview and Scrutiny Committees**

- 4.2. The Overview and Scrutiny Committees share the following responsibilities where the subject matter falls within their remit as defined in paragraphs 4.3 to 4.10:
- 4.2.1. scrutinising decisions of the Cabinet, offering advice or making recommendations on the matter;
  - 4.2.2. offering any views or advice to the Cabinet or Council in relation to any matter referred for consideration by the Cabinet or Council;
  - 4.2.3. monitoring the implementation of decisions to examine their effect and outcomes;
  - 4.2.4. referring to full Council, the Cabinet or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Overview and

Scrutiny Committee determines should be brought to the attention of the Council, Cabinet or the Committee or Sub-Committee;

- 4.2.5. 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;
- 4.2.6. assisting the Council in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- 4.2.7. preparation, implementation, monitoring and review of a work programme;
- 4.2.8. establishing such commissioned work as appropriate after taking into account the availability of resources, the work programme and the matter under review.

### **Overview and Scrutiny Board**

4.3. The Overview and Scrutiny Board has responsibility for:

- 4.3.1. carrying out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters such as finance and transformation, economic development, regeneration and infrastructure, communication, culture, events, libraries, museums, community safety, regulatory services, licensing, leisure, sport and tourism;
- 4.3.2. considering decisions that have been called-in pursuant to the Procedures set out in this Constitution for further scrutiny;
- 4.3.3. undertaking scrutiny of the Council's budget processes, and may be assisted by representation from the other Committees in this task;
- 4.3.4. carrying out the Council's overview and scrutiny functions relating to crime and disorder as required by legislation. Crime and disorder overview and scrutiny will take place at least once a year.
- 4.3.5. discharging any other statutory duties for which the Overview and Scrutiny function is responsible, other than those that relate to Flood Risk Management, Health, Adult Social Care, Children's Services and Education;
- 4.3.6. the preparation, implementation, monitoring and review of a work programme for the Overview and Scrutiny Board;
- 4.3.7. overseeing the Council's overall Overview and Scrutiny function including oversight of the work plans and use of resource across all Overview and Scrutiny bodies;
- 4.3.8. keeping the Overview and Scrutiny function under review, suggesting changes as appropriate to ensure that it remains fit for purpose;
- 4.3.9. 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;

- 4.3.10. maintaining oversight and establishing priorities for the training needs of the whole of the Overview and Scrutiny function.

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

- 4.4. The Health and Adult Social Care Overview and Scrutiny Committee will carry out those duties as outlined in 4.2.1 to 4.2.8 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.
- 4.5. 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**

- 4.6. The Children's Services Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters which relate to the delivery of services for children in Bournemouth, Christchurch and Poole.
- 4.7. This Committee acts as the Council's Statutory Education Committee as required by legislation.
- 4.8. Education co-optees will be appointed to this Committee in line with legislation, and as set out within Article 6 of this Constitution.

#### **Environment and Place Overview and Scrutiny Committee**

- 4.9. The Environment and Place Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters such as planning development management, house building, homes, environment, cleansing, waste and sustainability.
- 4.10. This Committee carries out all the Council's overview and scrutiny functions relating to flood risk management as required by legislation.

#### **Changes to functions of Overview and Scrutiny Committees**

- 4.11. The remit of the Overview and Scrutiny Committees is based on the division of Portfolio Holder responsibilities. Portfolio Holders may report to more than one Overview and Scrutiny Committee.
- 4.12. Portfolio Holder responsibilities are changeable and from time to time it may be necessary to modify the designation of functions across the Overview and Scrutiny Committees to maintain an efficient fit and clear lines of accountability. Changes will be included as required within the annual report of the Statutory Scrutiny Officer to Council.

## **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. appeals by parents and students against the Council's decision in relation to student awards;
  - 7.1.2. appeals by parents against the Council's decision on boarding education matters and other pupil benefits;



- 7.1.3. appeals by parents against the Council's decision in relation to the provision of transport in cases of need, special circumstance or safety;
- 7.1.4. appeals against the Council's decision on the provision of transport to denominational schools and colleges; and
- 7.1.5. appeals relating to disciplinary action against, and in respect of, the relevant Statutory Officers, as defined in The Local Authorities (Standing Orders)(England) Regulations 2001 (as amended).

## **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, as defined in The Local Authorities (Standing Orders)(England) Regulations 2001 (as amended). 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 the case of a complaint against a relevant Officer, the decision whether to refer the matter to the Investigation and Disciplinary Committee will be delegated to:
  - 8.4.1. the Monitoring Officer or Chief Finance Officer, in consultation with the Director of People & Culture, in the case of a complaint against the Head of Paid Service, and;
  - 8.4.2. the Head of Paid Service, in consultation with the Director of People & Culture, in the case of a complaint against the Monitoring Officer or Chief Finance Officer.
- 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).

## **9. Transportation Advisory Group**

- 9.1. The Transportation Advisory Group (TAG) may:
- 9.1.1. consider transportation issues, including proposed highway regulation and traffic regulation orders, which are not otherwise delegated to the relevant Chief Officer to determine in accordance with the officer scheme of delegation;
  - 9.1.2. receive representations from residents, ward councillors, petitioners and interested persons when considering matters under 9.1.1 above;
  - 9.1.3. provide feedback to Cabinet as a consultee, including reasons when at variance to the officer recommendation, on each of the transport issues referred to it under 9.1.1 above;
- 9.2. For the avoidance of doubt, the Transportation Advisory Group is not permitted to make decisions in its own right.
- 9.3. The composition of the Transportation Advisory Group shall consist of one appointed representative (excluding Executive Members) from each formally constituted political group under The Local Government (Committees and Political Groups) Regulations 1990 and shall appoint one of the political group representatives to preside.

## **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 regulation 2 or Schedule 1 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 sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)	Non-Executive
5.	The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 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 Schedule 2 to the Noise and Statutory Nuisance Act 1993 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 section 330 of the Town and Country Planning Act 1990 as to interests in land	Non-executive
13.	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	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 paragraph 1 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 the 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 Chairs 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.

## **12. Shareholder Advisory Board and the Shareholder Operations Board Governance Framework**

### **Purpose**

- 12.1. The Shareholder Advisory Board (SAB) has been established specifically to discharge the shareholder functions of the Council, in relation to those companies of which the Council is a shareholder.
- 12.2. The Shareholder Operations Board (SOB) has been established to provide strategic management of the Council companies and will advise and make recommendations to the Shareholder Advisory Board.
- 12.3. The SAB and SOB have been established to advise on the activities of all Council companies as defined in section 12.10 below.
- 12.4. The shareholder in this context is always the Chief Executive of BCP Council or BCP Council, not the members of the Shareholder Advisory Board themselves, or any Directors appointed to represent the Council on the boards of these companies.
- 12.5. The Shareholder Advisory Board does not have day-to-day operational control over any of the companies of which the Council is a shareholder. It is the responsibility of the Shareholder Advisory Board to:
  - 12.5.1. formulate policy direction for Council companies prior to formal consideration and adoption by Cabinet, including
  - 12.5.2. to consider proposals from the Shareholder Operations Board for the creation, liquidation, disposal and acquisition, appointment of directors, annual business plan, governance and financing; of any Council company noting that some of these functions may require Cabinet approval and
  - 12.5.3. to receive and consider reports on company performance.
- 12.6. The Shareholder Operations Board has the following responsibilities:
  - 12.6.1. To support the Shareholder Advisory Board;
  - 12.6.2. To oversee the implementation of decision by Cabinet concerning Council Companies;
  - 12.6.3. To oversee the commissioning of work from Council Companies;
  - 12.6.4. To oversee the due diligence upon and validation of the business plan received from Council companies prior to presentation to the Shareholder Advisory Board;
  - 12.6.5. To oversee funding arrangements for Council companies;
  - 12.6.6. To oversee the performance of Council companies.
- 12.7. All decisions regarding the day-to-day operation of each company are the responsibility of the Board of Directors of each company.



- 12.8. Each Board of Directors will include:
- 12.8.1. **“Council Directors”** who for the purposes of this document are the non-executive (i.e., non-salaried) directors appointed by the Chief Executive in accordance with the Articles and/or Shareholder Agreement of the Company, to represent the Council on the Board of directors. This category will often (but not always) include the Chair of the Board of directors; and
  - 12.8.2. **“Non-Council Directors”** who for the purposes of this document include the executive (i.e., salaried) directors and the independent non-executive directors appointed by the Board. This category will include the Managing Director of the company.
- 12.9. In addition, the day-to-day liaison with the companies will be between the relevant client service of the Council and the Managing Director of each company.
- 12.10. There are two classifications of companies, which the Shareholder Advisory Board and the Shareholder Operations Board regularly deals with:
- 12.10.1. **“Teckal Companies”** – these are companies that meet all of the following three criteria:
    - a) There is no direct private capital participation in the company; in other words, either:
      - i. the Council is the sole shareholder in the company; or
      - ii. the shareholders are made up exclusively of public sector bodies, including the Council.
    - b) The Council (either acting as the sole shareholder, or together with the other public sector owners) exercises effective control over the company’s affairs; in other words, the same as the relationship between the Council (and the other public sector owners where applicable), and one of their internal directorates.
    - c) The company must be inward not outward focussed; in other words, at least 80% of the activity of the company – that is, over 80% of its turnover – must be for the Council, and where applicable its other public sector owners.
  - 12.10.2. **“Non-Teckal Companies”** – these are companies that fall outside the definition of a Teckal Company, as summarised above.
  - 12.10.3. Due to their very nature, Teckal Companies require a much greater deal of oversight from the Shareholder Advisory Board and the Shareholder Operations Board than their NonTeckal counterparts do.
  - 12.10.4. For clarification, BCP Councillors will not normally be nominated by BCP Council to Boards of Council Companies.

## Meetings of the Shareholder Advisory Board

12.11. The Shareholder Advisory Board and Shareholder Operations Board will hold the following Meetings each year, each for the following purpose:

Purpose of Meeting	Frequency of Meeting	Does this apply to Teckal Companies?	Does this apply to non-Teckal Companies?
To receive annual reports and annual accounts from companies	Once per year	Yes	Yes
Performance Monitoring (subject to any alternative monitoring requirements set out within any Shareholder Agreement or contracts for goods/services/ works with the company)	Twice per year, as a minimum	Yes	Yes (once per annum)

12.12. The Shareholders Advisory board will also consider, on a regular basis and at least every two years, the need for the continued operation of the Council company.

12.13. Any other Meetings of the Shareholder Advisory Board and the Shareholder Operations Board will be called as and when required to deal with company business.

12.14. Minutes, Notices and Agenda of Shareholder Advisory Board and the Shareholder Operations Board Meetings shall be sent to the respective Board members at least 5 working days prior to the Meeting. Administrative support to be given by the Executive Hub.

## Composition of the Shareholder Advisory Board

12.15. The Shareholder Advisory Board core membership is as follows:

- Leader of the Council (Chair of the Board)
- Cabinet Member for Finance
- Cabinet Member for Transformation, Resources & Governance
- Chief Executive

- Chief Operations Officer
- Director of Finance or Deputy
- Director of Law and Governance or Deputy
- Corporate Director of Wellbeing
- Corporate Director of Children's Services

12.16. Other Portfolio Holders, Officers and Portfolio Leads may be invited to attend specifically for items that fall within their remit, present reports, or otherwise support the meeting as required.

### **Composition of the Shareholder Operations Board**

12.17. The Shareholder Operations Board is an officer only Board and its core membership is as follows:

- Chief Executive (Shareholder Representative)
- Chief Operations Officer
- Director of Finance or Deputy
- Director of Law and Governance or Deputy
- Corporate Director of Wellbeing
- Corporate Director of Children's Services

12.18. Other Officers and Commissioning Teams may be invited to attend specifically for items that fall within their remit, present reports, or otherwise support the meeting as required.

### **Attendance**

12.19. In respect of the Shareholder Advisory Board there must be a minimum attendance of at least one Councillor and one Corporate Director at each meeting, there is no provision for substitutes or deputies unless otherwise stated in the membership above.

12.20. In respect of the Shareholder Operations Board, there must be a minimum attendance of the Chief Executive or the Chief Operations Officer, plus the Director of Finance or their Deputy and the Director of Law & Governance or their Deputy. The Chief Executive will chair meetings of the Shareholder Operations Board.

12.21. A number of BCP Council Officers will have the specific responsibility for commissioning, transacting and day to day management of arrangements with the council company. For the purposes of this document these Officers will be referred to as "Link Officers" A Link Officer will be nominated for each company and will undertake the activities set out in Annex 1. The Link Officer in relation to each company will attend meetings of the Shareholder Advisory Board as and when required.

### **BCP Council responsibility as a Shareholder of its Council Companies**

12.22. Subject to any relevant overriding provisions contained in a company's Shareholder Agreement or within a company's Articles of Association, the

Shareholder Advisory Board and the Shareholder Operations Board are collectively established to undertake all of the following functions of the Council as a shareholder under the Companies Act 2006 by:

Ref	Function	Teckal Companies	Non-Teckal Companies
a)	Acting as the owner or joint owner of the Council's companies.	✓	✓
b)	Approving or making amendments to strategic or business plans.	✓	
c)	Monitoring performance and financial delivery against strategic business plans.	✓	
d)	Approving the acquisition of shares in another company.	✓	
e)	Approving the establishment of subsidiary companies.	✓	
f)	Approving the appointment or dismissal of any company Directors (including the Chair), which requires Shareholder consent under the Articles and/or Shareholder Agreement of the company.	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
g)	Determining and approving all matters relating to terms and conditions of company Directors which require Shareholder consent under the Articles and/or Shareholder Agreement of the company.	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
h)	Determining and approving all matters relating to the entering of any contracts with company Directors, other than as permitted under any service agreement the company may have with the Council.	✓	✓
i)	Determining and approving all matters relating to the employment of the senior management team of the company which require Shareholder consent under the Articles and/or Shareholder Agreement of the company.	✓	

Ref	Function	Teckal Companies	Non-Teckal Companies
j)	Approving changes to share capital and the admission of additional shareholders.	✓	<p>✓</p> <p>In so far as it relates to:</p> <ul style="list-style-type: none"> <li>• any instruction to the Directors to allot shares;</li> <li>• any increase in the authorised share capital of the company;</li> <li>• any reduction in the authorised share capital of the company;</li> <li>• any sub-division, consolidation, or redenomination shares;</li> <li>• variation of class rights attached to shares;</li> <li>• any purchase of shares by the company itself;</li> <li>• any alteration to the company's Articles of association relating to pre-emption rights, or relating to the shares of the company; or</li> <li>• any disapplication of pre-emption rights,</li> </ul> <p>or any other matter that requires a resolution of the Council and any other shareholders of the company by law or otherwise.</p>

Ref	Function	Teckal Companies	Non-Teckal Companies
k)	Approving disposals of assets valued under £500,000.	✓	<p>✓</p> <p>In so far as it relates to a Substantial Property Transaction (as defined in the Companies Act 2006) with one of the Directors (or a connected person of that Director), and therefore requires a resolution of the Council and the other members of the company.</p>
l)	Approving borrowing up to £100,000;	✓	<p>✓</p> <p>In so far as the financial assistance being sought is:</p> <ul style="list-style-type: none"> <li>• by one of the Directors, or</li> <li>• by persons connected with one of the Directors, or</li> <li>• by the company to purchase its own shares,</li> </ul> <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>

Ref	Function	Teckal Companies	Non-Teckal Companies
m)	Approving and making grants or loans up to £500,000 other than by way of normal trade credit, subject to approval from the Council's Chief Financial Officer in line with the Council's Financial Regulations, and taking appropriate legal advice on any requirements under the UK Subsidy Control Regime and necessary grant or loan terms and conditions, and the usual risk assessments.	✓	<p>✓</p> <p>In so far as the financial assistance being sought is:</p> <ul style="list-style-type: none"> <li>• by one of the Directors, or</li> <li>• by persons connected with one of the Directors, or</li> <li>• by the company to purchase its own shares,</li> </ul> <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>
n)	Entering, amending or terminating any agreements which create a potential liability for the company in excess of £250,000 up to £500,000.	✓	
o)	Making changes to the nature of the company's business.	✓	<p>✓</p> <p>In so far as it relates to:</p> <ul style="list-style-type: none"> <li>• amendments to the company's Articles of Association or Shareholders Agreement;</li> <li>• re-registering the company from private to public (or vice versa) or limited to unlimited (or vice versa).</li> </ul>
p)	Approving a decision which could otherwise be taken by a Council Director, but which would, if being taken by the Council, amount to a key decision.	✓	
q)	Approving any dividends requiring Council consent.	✓	✓

Ref	Function	Teckal Companies	Non-Teckal Companies
r)	Exercising any powers to issue instructions to company directors.	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
s)	Exercising decision making over reserved matters set out in a company's Shareholder Agreement.	✓	✓
t)	Making recommendations to Executive for any investment in/asset transfers to or lending to companies.	✓	✓
u)	Delegating specific functions to Officers of the Council to increase commercial flexibility.	✓	

12.23. Any advice required by Shareholder Advisory Board and the Shareholder Operations Board in relation to the above and the impact of any provisions within a company's Articles of Association or any existing Shareholder Agreements must be sought from the Council's Legal Services Department.

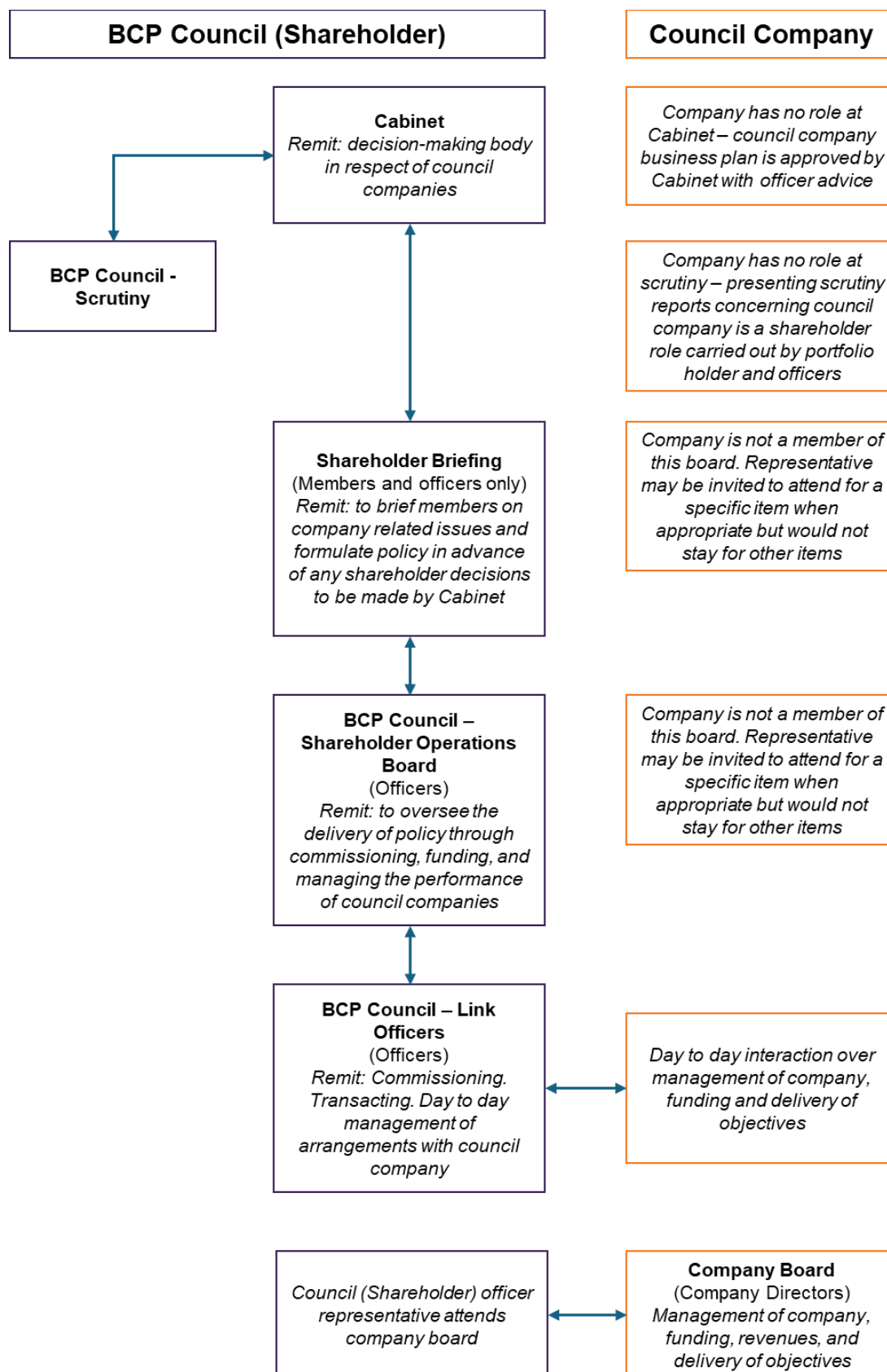
### **Delegated powers**

12.24. Collectively the Shareholder Advisory Board and the Shareholder Operations Board have the delegations required to effectively support the Cabinet and Council to make all decisions in respect of Council companies.

12.25. The following appendix outlines the Council's Shareholder Governance Arrangements.



## Shareholder Governance Arrangements



## **ANNEX 1: Link Officers**

1. Each company shall have a nominated BCP Council client officer ('Link Officer') who will engage monthly (or more frequently as required) with that company to ensure that Shareholder Advisory Board and or Shareholder Operations Board is provided with:
  - a. Updates in respect of company performance, market conditions and assurance.
  - b. Details of strategic plans, funding and other requirements.
  - c. Sufficient information to evaluate any new business proposals.
2. The Link Officers will review reports from their nominated company before they are submitted to the Shareholder Advisory Board and Shareholder Operations Board, liaising with finance, legal or other colleagues as necessary maintain joint risk registers as required and ensure the respective Boards are provided with the level of detail and analysis required to fulfil its role.
3. Link Officers are required to:
  - a. Actively communicate and collaborate with the company and BCP Officers as required, including the Chief Executive, Director of Finance and the Director of Law & Governance or their nominated representatives.
  - b. Build and maintain effective and transparent relationships with all parties.
  - c. Actively work to promote and improve good working relationships between the Council and its companies.
  - d. Take appropriate action to avoid conflicts of interest and, where a potential conflict is identified, to assist in managing any such conflict.
  - e. Ensure that the company has the appropriate level of support and challenge, including support to deliver the agreed objectives and priorities for the Council and challenge to minimise or mitigate any risk to the Council. The appropriate balance of challenge and support will depend on the company objectives, the nature of the relationship with the company (i.e. whether wholly or partly owned), performance and risks or opportunities.
  - f. Manage and maintain effective relationships between shareholder representatives and the company.
  - g. Appropriately feedback any concerns of the Council to the company and vice versa.
  - h. Review board decisions and actions and identify any concerns in relation to directors potentially exceeding the remit of their powers.
  - i. Flag any issues and risks as quickly as possible.

## 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:
    - a) the Town and Country Planning Act 1990;
    - b) the Planning (Hazardous Substances) Act 1990;

- c) the Planning (Listed Buildings and Conservation Areas) Act 1990;
- d) the Planning (Control of Advertisement) Regulations 1992;
- e) the Hedgerows Regulations 1997;
- f) the Anti-Social Behaviour Act 2003 (in so far as it relates to high hedges);
- g) the Planning and Compulsory Purchase Act 2004;
- h) the Planning Act 2008;
- i) 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;
- j) 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;
- k) the Town and Country Planning Act 1971;
- l) all the Housing and Planning Acts; and
- m) 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) entering 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.
- 1.6. 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 can 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 sets 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 Section 151 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 the 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>	
28	To appoint any Officer to be a Proper Officer for the purposes of any function of the Council.

**Delegations to each Chief Officer and Duty Gold and Silver Officers in relation to a declared emergency or major incident**

Ref	Power
29	<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>

**Delegations to each Chief Officer**

**Communications**

30	To determine whether to authorise the release of information or other documentation to the press, any member of the public or external body.
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**Complaints**

31	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.
32	<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;</li> </ul>

	and/or (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.
33	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>	
34	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>	
35	To undertake all action to give effect to any decision of or on behalf of the Council.
36	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.
37	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>
38	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>
39	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.

40	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.
41	To determine the terms of and enter into agreements with any organisation to place staff at the disposal of that organisation.
42	To administer the supply of goods, works and/or services to any external person/body.
43	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.
44	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.
45	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.
46	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.
47	<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>
48	<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>
49	To undertake all action for the purpose of investigating and/or enforcing



	<p>(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>
50	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.
51	<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>
52	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.
53	<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>
54	<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> </ul>

	<p>(b) an authorised officer; and/or</p> <p>(c) an enforcement officer,</p> <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>
55	<p>To undertake all action in connection with any fixed penalty notice, including:</p> <p>(a) to determine any relevant content; and/or</p> <p>(b) to determine whether or not to issue a notice,</p> <p>but excluding authorising the initiation of any formal court proceedings.</p>
56	<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>
57	<p>To authorise and take action to secure a warrant.</p>
58	<p>To monitor, store, archive and/or destroy Council documentation provided this accords with the Council's relevant document retention and destruction policies.</p>
59	<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> <p>(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</p> <p>(b) the expression of interest is reported to Full Council / in accordance with Executive arrangements within three months of receipt.</p>
60	<p>To undertake all action in connection with a request for the release of information pursuant to:</p> <p>(a) any freedom of information legislation;</p> <p>(b) any environmental information legislation;</p> <p>(c) any data subject access request; and/or,</p> <p>(d) any other legislation.</p>
61	<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> <p>(a) they consider it is necessary in relation to the discharge of a function; and</p> <p>(b) any cost associated with any such transaction can be met from within existing budgets for which the Chief Officer is responsible.</p>
<b>People Management</b>	
62	<p>To determine changes to the number and distribution of posts for which they are responsible subject to financial provision for the current and future</p>

	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.
63	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.
64	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>
65	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>Regulation of Investigatory Powers (RIPA)</b>	
66	To exercise the role of authorising officer and designated person as set out in Appendix 1.
<b>Signing Documents</b>	
67	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>	
68	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> <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</p>

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

Please refer to Part 5 (Financial Regulations) of the Constitution for responsibilities, powers and delegations

**Specific delegations of particular relevance to the Monitoring Officer / Director – Law and Governance**

Ref	Delegation
<b>Councillor</b>	
69	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.
70	Subject to consultation with the Chair of Council to determine whether to approve any expenditure on civic hospitality.
71	To authorise any Councillor attendance at a conference, session and/or workshop.
<b>Governance</b>	
72	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>	
73	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.
74	To authorise any officer of the Council to appear in any court or tribunal.
75	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.
76	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.
77	To undertake all action in connection with the preparing and/or issuing of

	<p>any:</p> <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> <p>including in consultation with the Estates Unit, determining any rent level, fee and all other terms associated within any such document.</p>
78	<p>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:</p> <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>
79	<p>To undertake all action in connection with 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.</p>
80	<p>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.</p>
81	<p>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.</p>
<b>Monitoring officer</b>	
82	<p>To exercise all statutory powers of the monitoring officer of the Council.</p>
83	<p>To determine whether to grant a dispensation in respect of any disclosable pecuniary interest or other registerable interest.</p>
84	<p>To:</p> <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;</li> </ul>

	and/or (b) to refer any complaint concerning a failure to disclose a disclosable pecuniary interest to the police without further reference.
<b>Referendums</b>	
85	To make arrangements for (including the holding of) any referendum.
<b>Registers</b>	
86	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>	
87	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>	
88	<p>To undertake all action relating to:</p> <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>	
89	<p>To undertake all action relating to the regulation of highways, public rights of way and/or public access including:</p> <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> <li>(ii) the Road Traffic Regulation Act 1984;</li> </ul> </li> <li>(c) the referral of appropriate permanent or experimental traffic regulation orders to the Transportation Advisory Group, where, following consultation with the relevant Portfolio Holder, it is considered that there are significant or contentious objection(s) received during the statutory consultation period.</li> </ul>

<b>Licensing</b>	
90	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.*
91	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.*
92	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.*
93	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> <ul style="list-style-type: none"> <li>(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</li> <li>(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.</li> </ul>	
<b>Planning</b>	
94	<p>To 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> <ul style="list-style-type: none"> <li>(a) the administering and processing of any such application including: <ul style="list-style-type: none"> <li>(i) any application submitted wholly or partly under section 73 and/or section 73A of the Town and Country Planning Act 1990;</li> <li>(ii) any application for listed building consent;</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>(iii) any application for permission in principle and/or technical detail consent;</li> <li>(iv) any reserved matter application; and/or</li> <li>(v) any certificate of lawful use,</li> </ul> <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>
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<b>Specific Delegations of particular relevance to the Corporate Director – Children’s Services</b>
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Ref	Power
95	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
96	To determine whether to approve any school governor appointment for which the Council has responsibility.

<b>Specific delegations of particular relevance to the Shared Director of Public Health</b>
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Ref	Power
97	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.
98	To determine any expenditure from the Public Health Grant.
99	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 Office	Chief Executive; Director of Law and Governance
Section 84	Resignation from elected office	Chief Executive
Section 88	Arranging a Council meeting to appoint the Chair	Chief Executive

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
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 Freemen	Chief Executive; Director of Law and Governance
Schedule 12	Issues relating to Council meetings	Chief Executive; Director of Law and Governance and any other person identified for such purpose in the Constitution

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
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>Local Authorities (Standing Orders) (England) Regulations 2001</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive Corporate Director - Resources

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
<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.

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# PART 4

## PROCEDURE RULES

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## PART 4A

# ACCESS TO INFORMATION PROCEDURE RULES

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

### **1. Interpretation**

- 1.1. In these and subsequent Procedure Rules in this Part 4:
- 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 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, Sub-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 relevant Overview and Scrutiny Committee, or if there is no such person, each member of that Committee 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 relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

- 16.2. If there is no Chair of the Overview and Scrutiny Committee 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 relevant Overview and Scrutiny Committee, 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 Committee 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 relevant Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council under Rule 16 of this Part 4A,

the Committee may require the Cabinet to submit a report to Full Council within such reasonable time as the Committee 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 Overview and Scrutiny Committee, 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 of 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 Committees.
- 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(s) of the relevant Overview and Scrutiny Committee(s); or
  - 20.5.2. if there is no such person, or if the Chair of the Overview and Scrutiny Committees are unable to act, the Chair of the Council; or
  - 20.5.3. where there is no Chair of either the Overview and Scrutiny Committees 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 Committees**

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

- 24.1. Subject to Rule 24.3 of this Part 4A, any member of the Overview and Scrutiny 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 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 and 24.5 of this Part 4A the Chair, or in the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee 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 Committees.

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

- 24.5. Where the Leader so determines, a member of the Overview and Scrutiny 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 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 relevant Overview and Scrutiny 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 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 nine 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 Chairs of the Overview and Scrutiny Committees shall be entitled to attend any formal public meeting of the Cabinet to refer to any recommendations made by their Committee to that 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 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 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 13 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 19 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 10 of Part 4D**

A mover of a motion under Procedure Rule 10 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 unless otherwise stated.
- 1.2. The Overview and Scrutiny 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.

### **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. Each Committee will be responsible for its own Work Plan.
- 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 to ensure overview and scrutiny work is adding value to the Council as a whole.

### **3. Responsibilities of Overview and Scrutiny Chairs and Vice-Chairs**

- 3.1. The Overview and Scrutiny Committee Chairs and Vice-Chairs will meet on a regular basis to assist the Board in maintaining oversight of the Overview and Scrutiny function, for example monitoring actions for improvement for Overview and Scrutiny, training and development needs, resource availability and cross-cutting scrutiny issues. Meetings will be informal and may be virtual.
- 3.2. The Chair and Vice-Chair of the Audit and Governance Committee will be invited to attend informal meetings of the Chairs and Vice-Chairs of Overview and Scrutiny as appropriate to discuss matters of mutual interest.
- 3.3. The Statutory Scrutiny Officer will report to Council on an annual basis on the work of Overview and Scrutiny, including recommendations for any changes that may be required to ensure the function remains fit for purpose. This report will be informed by consultation with the Chairs and Vice-Chairs of the Overview and

Scrutiny Committees and referred to the four Overview and Scrutiny Committees for comment.

## **4. Consultation and Suggestions**

- 4.1. 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.
- 4.2. 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.
- 4.3. All suggestions for Overview and Scrutiny work will be accompanied by:
  - 4.3.1. detail outlining the background to the issue suggested;
  - 4.3.2. the proposed method of undertaking the work;
  - 4.3.3. likely timescale associated with undertaking the work; and
  - 4.3.4. the anticipated outcome and value to be added by the work proposed.
  - 4.3.5. No item of work shall join the work plan of any Overview and Scrutiny Committee without an assessment of this information.
- 4.4. 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 4.3 of this Part 4C.
- 4.5. 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.

## **5. Requests**

- 5.1. 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.
- 5.2. 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.

- 5.3. Where the Committee chooses not to exercise its powers in relation to the request, it will provide reasons for this to the body that made the original request.
- 5.4. 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 4.3 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.
- 5.5. Any Councillor raising an item under Rule 5.4 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.

## **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. Committees may undertake one piece of commissioned work at a time to ensure availability of resource across all Committees.
- 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. The Overview and Scrutiny Committees shall have sole discretion to determine which Councillors and Officers will be requested to attend and the format that discussions with invitees will take. All discussions will be based on respect and courtesy - consistent with the Code of Conduct - and will be undertaken with the aim of maximising the effectiveness of the scrutiny being conducted.
- 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 Councillor or 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**

- 13.1. Overview and Scrutiny Committees may jointly scrutinise a particular matter to provide for effective Overview and Scrutiny. To ensure agile scrutiny can take place, there will be a presumption that this will be undertaken by a lead Overview and Scrutiny Committee, with invitation extended to the Chairs of other relevant Committees to attend and contribute to discussions. The Monitoring Officer will determine the lead Overview and Scrutiny Committee.
- 13.2. Where the Monitoring Officer determines that arrangements at 13.1 above will not lead to effective Overview and Scrutiny, a joint committee of more than one Overview and Scrutiny Committee may be formed. This will include all members of the relevant Overview and Scrutiny Committees. A Chair for the joint committee will be selected from between the Chairs of the relevant committees.
- 13.3. Determination of the matters at 13.1 and 13.2 above will be made by the Monitoring Officer in consultation with the Chairs and Vice-Chairs of the Overview and Scrutiny Committees. Consultation will be informal and may take place virtually.
- 13.4. 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. Where the relevant Overview and Scrutiny Committee referred to at 14.1 above 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.

14.3. Call-In is the exercise of Overview and Scrutiny's statutory power to review an Executive Key Decision which has been made but not carried out. Call-In should only be used in exceptional circumstances. This Rule shall apply to a Key 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:

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

14.3.2. 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

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

14.4. When a Key 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.

14.5. Subject to any urgency provisions a decision taken and to which Rule 14.4 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 14.4 of this Part 4C.

14.6. Where a decision referred to in Rule 14.4 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 14.5 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.

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

14.7.1. have the correct number of signatures; and

14.7.2. give reasons for the Call-In. The reasons must set out the grounds upon which the Call-In is based with reference to Rule 14.3 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.

- 14.8. 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 – as outlined at 14.1 above - alternative arrangements to avoid any delay in implementing Cabinet decisions not subject to Call-In.
- 14.9. 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.
- 14.10. The Overview and Scrutiny Board, having considered the matter, will decide whether to refer the decision to Cabinet for consideration. Where the matter is referred for reconsideration, advice must be offered by the Overview and Scrutiny Board. The Board may decide to offer no advice in which case the decision may be implemented immediately. Where advice is offered, the Cabinet will reconsider the decision in light of the advice provided.
- 14.11. 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.
- 14.12. 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.
- 14.13. 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 14.6 of this Part 4C.
- 14.14. The Call-In facility does not apply to the determination of a Motion under Procedure Rule 10 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 Key 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 relevant Overview and Scrutiny Committee.
- 16.4. It is for the Overview and Scrutiny Committee 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 Committee's Work Plan, including requests for items of scrutiny from Councillors and members of the public in accordance with the procedure set out in this Constitution.

## 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. In the event of exceptional circumstances beyond the control of the council or where it would be detrimental to the effective delivery of council business to proceed with a scheduled meeting, the Chair, in consultation with the political leaders, may alter the date, time and/or location of a meeting of council.

Council

1.3. 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.

Council

1.4. 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.

Cabinet,  
committees and  
sub-committees

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

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

Council

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.

Committees and  
sub-committees

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.

Council,  
committees and  
sub-committees

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

Council,  
committees and  
sub-committees



Chair. The person presiding over the election of Chair shall be entitled to a casting vote in the event of an equality of votes.

- 2.5. The meeting may elect, from among the voting members, a councillor to the office of Chair and Vice-Chair. For the avoidance of doubt, a councillor who is absent and substituted for the meeting at which the election takes place is not eligible for nomination.
- 2.6. In the event that an ineligible councillor is elected to office, that councillor shall not be permitted to take office and the candidate with the second-highest number of votes, where a ballot is conducted, shall be duly elected.

### **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. Duration of meetings**

- 6.1. Upon a meeting duration reaching two hours without a previous adjournment, the Chair shall, unless in their opinion it is expedient to continue to the end of remaining business, adjourn the meeting at the end of the item under discussion for a short adjournment the duration of which is at the Chair's discretion but must not exceed 30 minutes.
- 6.2. Rule 6.1 does not preclude a Motion without Notice being moved under Procedure Rule 11 to adjourn a meeting.

<div>Local Government Act 1972, Schedule 12, Part 1, (S.4)</div>	<div>7. Urgent Business</div> <div>7.1. 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.</div> <div>7.2. 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.</div>	<div>Council, committees and sub-committees</div>
<div>Local Government Act 1972, (S.100B)</div>	<div>8. Confirmation of Minutes</div> <div>8.1. Minutes of the last meeting must be confirmed at the next ordinary meeting.</div> <div>8.2. 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.</div> <div>8.3. The minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chair.</div> <div>8.4. 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.</div> <div>8.5. 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.</div> <div>8.6. Any question about the accuracy of any minute of a body must be considered and determined by that body at its next meeting.</div>	<div>Cabinet, committees and sub-committees</div> <div>Cabinet, committees and sub-committees</div>
	<div>9. Matters for decision by the Council</div> <div>9.1. All matters for decision by the Council (except any urgent items) shall be included with the Agenda.</div> <div>9.2. 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.</div> <div>9.3. 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.</div>	<div>Council</div>

## **10. Notices of Motion**

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

### **Procedure**

- 10.3. Notice of every motion (other than a motion which under Procedure Rule 11 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**

- 10.4. 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**

- 10.5. 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**

- 10.6. 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**

- 10.7. Subject to Rule 10.8 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**

- 10.8. 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 three minutes. No amendments to the motion may be moved. The motion will then stand referred to the Cabinet.

10.9. 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

10.10. 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.

10.11. 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.

## **11. Motions moved without notice**

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

- 11.1.1. appointment of a Chair of the meeting at which the motion is made;
- 11.1.2. motions relating to the accuracy of the minutes;
- 11.1.3. that an item of business specified in the summons should have precedence;
- 11.1.4. reference to the Council, a Committee, Sub-Committee, or the Cabinet for consideration or reconsideration;
- 11.1.5. appointment of or appointment to Committees, Sub-Committees, or the Cabinet occasioned by an item mentioned in the summons to the meeting;
- 11.1.6. receipt of Records of Decisions and Minutes of Committees and Sub-Committees;
- 11.1.7. adoption of recommendations of the Cabinet, Committees and Sub-Committees and any consequent resolutions;
- 11.1.8. that leave is given to withdraw a motion;
- 11.1.9. receipt of reports of officers and any consequent resolutions;
- 11.1.10. extending the time limit for speeches;
- 11.1.11. amendment to motions;
- 11.1.12. that the meeting proceed to the next business;
- 11.1.13. that the question be now put;

- 11.1.14. that the debate be now adjourned;
- 11.1.15. that the meeting do now adjourn;
- 11.1.16. suspending Procedure Rules, in accordance with Procedure Rule 21 of this Part 4D;
- 11.1.17. motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public;
- 11.1.18. that a Councillor named under Procedure Rule 25 of this Part 4D should not be heard further;
- 11.1.19. by the Chair under Procedure Rule 25 of this Part 4D, that a Councillor do leave the meeting; and
- 11.1.20. giving consent of the Council where consent of the Council is required by these Procedure Rules.

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

Council

- 12.1. 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.
- 12.2. 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.
- 12.3. 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.
- 12.4. A question will be rejected by the Chair in consultation with the Monitoring Officer where it:
  - 12.4.1. does not relate to a matter for which the Council has a responsibility, or which affects the Council's administrative area;
  - 12.4.2. is defamatory, frivolous, offensive, vexatious, unlawful, solely or mainly rhetorical or otherwise improper;
  - 12.4.3. requires the disclosure of Confidential or Exempt Information as defined by the Access to Information Procedure Rules;
  - 12.4.4. names or identifies individual service users, Officers or members of staff of partner agencies;
  - 12.4.5. is considered to be inappropriate for the particular meeting; or
  - 12.4.6. duplicates a question that has been asked within the preceding six months.
- 12.5. 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.

- 12.6. Subject to Rule 12.5 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.
- 12.7. Following the answer to each question, the questioner may only ask one supplementary question which must relate 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.
- 12.8. 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.
- 12.9. 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 their discretion, will have regard to the business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

### **13. Public participation at meetings**

- 13.1. 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.
- 13.2. 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.
- 13.3. This procedure does not apply to Planning Committees, Licensing Committee, Appeals Committee or the Transportation Advisory Group. In so far as the law allows, each of those Committees and Groups may adopt one or more protocols / codes for establishing the arrangements and proceedings regarding any public representation at the Group, Committee or any of its Sub-Committees.
- 13.3.1. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee or Group. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

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

- 13.3.2. A protocol / code may make provision limiting the ability of a member of the public to speak on any item and may also limit the right of a Councillor who is not appointed to that Committee or Group to speak.
- 13.3.3. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

## Public Questions

13.4. 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:

- 13.4.1. 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;
- 13.4.2. the person to whom the question is submitted shall respond to the question at the relevant meeting unless the matter is of such a specialist nature that it requires a response from the Head of Paid Service, Monitoring Officer or Section 151 Officer, or a specialist officer nominated by one of those officers;
- 13.4.3. 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 by mid-day three 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;
- 13.4.4. where a report is not published five-clear days before the meeting, the deadline for the submission of questions, as defined in 13.4.3, shall be adjusted accordingly by the number of days that the publication of the report is delayed;
- 13.4.5. a question at Council shall relate to Council business, shall not exceed 150 words in length and shall be so framed as to elicit information rather than make a statement; Council
- 13.4.6. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the question is asked and shall not exceed 150 words in length; Cabinet, Committees and Sub-Committees
- 13.4.7. for the avoidance of doubt, headings, abbreviations, acronyms and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;
- 13.4.8. at Full Council no member of the public may ask more than four questions in any one Municipal Year; Council



- 13.4.9. no member of the public may ask more than three questions on any individual item of business as defined on the agenda of the meeting. Any person submitting multiple questions may not ask their second, or where applicable, third question until other members of the public, if any, have asked their first, or where applicable, second question, subject to the Chair's discretion;
- 13.4.10. 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;
- 13.4.11. the person asking the question may attend the meeting to read out their question, nominate another member of the public or, if they prefer, ask for an officer of the Council 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 read out the question on their behalf, the question will not be read out, but will be responded to by way of written answer;
- 13.4.12. 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;
- 13.4.13. 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**

13.5. 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:

- 13.5.1. 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;
- 13.5.2. 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;
- 13.5.3. a statement at Council shall relate to Council business and shall not exceed 150 words in length. At Full Council no member of the public may submit more than four statements in any one Municipal Year;

Council





- 13.7.1. include a clear and concise statement covering the subject of the petition;
  - 13.7.2. state what lawful action the petitioners wish the Council to take;
  - 13.7.3. be signed by at least 20 people supporting the petition;
  - 13.7.4. 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
  - 13.7.5. contact details, including name, address, telephone number (and where possible, an e-mail address) of the petition organiser.
- 13.8. 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.
- 13.9. An electronic petition system is available on the Council's website.
- 13.10. 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**

- 13.11. 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.
- 13.12. This petition scheme does not apply to:
- 13.12.1. any petition which is not about a matter for which the Council has a responsibility, or which affects its area;
  - 13.12.2. 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);
  - 13.12.3. a statutory petition (for example requesting a referendum);
  - 13.12.4. a petition that is related to confidential staffing matters; or
  - 13.12.5. 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.
- 13.13. 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.
- 13.14. Details of petitions affecting particular wards that have been excluded will be sent to the Councillors representing those wards.

13.15. 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**

13.16. Petitions can be submitted in paper format or electronically through the Council's e-petition portal.

13.17. Paper petitions can be submitted to the Monitoring Officer at the main office of the Council.

13.18. The Council will accept e-petitions hosted by third parties which meet the requirements of this scheme, in particular those required by Rule 13.7 of this Part 4D.

13.19. 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 for debate at a meeting of Council the petition organiser should contact the Monitoring Officer at least 10 working days before the meeting.

### **How the Council will respond to a petition**

13.20. 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.

13.21. If paragraph 13.13 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.

13.22. The Council's response to a petition will depend on what a petition asks for, but may include one or more of the following:

- 13.22.1. taking the action requested in the petition;
- 13.22.2. considering the petition at a meeting of the Council or Cabinet;
- 13.22.3. holding an inquiry into the matter;
- 13.22.4. holding a public meeting;
- 13.22.5. holding a meeting with petitioners or the petition organiser;
- 13.22.6. undertaking research into the matter;

- 13.22.7. writing to the petition organiser setting out the Council's views about the request in the petition;
- 13.22.8. referring the petition to an Overview and Scrutiny Committee or another Committee of the Council for consideration;
- 13.22.9. 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.

13.23. 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

13.24. 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.

13.25. 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).

13.26. 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

13.27. 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.

Council

## 14. Rules of Debate

### Motions and Amendments

14.1. 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.

14.2. 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 10 of this Part 4D.

Cabinet,  
committees and  
sub-committees

### **Seconders's Speech**

14.3. 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**

14.4. When speaking at the Council meeting a Councillor shall stand if they are able 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**

14.5. 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.

14.6. 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**

14.7. 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

- 14.7.1. to speak once on an amendment moved by another Councillor;
- 14.7.2. if the motion has been amended since they last spoke, to move a further amendment;
- 14.7.3. 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;
- 14.7.4. in exercise of a right of reply;
- 14.7.5. on a point of order referring to the specific Procedure Rule;
- 14.7.6. by way of personal explanation; or

- 14.7.7. to move one of the motions specified in Rule 14.16 of this Part 4D when the procedure in those paragraphs shall be followed.

14.8. 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**

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

- 14.9.1. to leave out words;
- 14.9.2. to leave out words and add others; and/or
- 14.9.3. to insert or add words,

but such amendment shall not have the effect of negating the motion before the Council.

### **Number of Amendments**

14.10. 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**

14.11. 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**

14.12. 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**

14.13. 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**

14.14. 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.

- 14.15. 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**

- 14.16. 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:

- 14.16.1. 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;
- 14.16.2. 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
- 14.16.3. 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**

- 14.17. A member of the meeting 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**

- 14.18. A member of the meeting 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**

- 14.19. 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



14.20. 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

## **15. Rescission of earlier resolution**

15.1. Subject to Rule 15.2 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

15.2. Such a motion may be moved if:

15.2.1. It is recommended by the Cabinet or a Committee

15.2.2. Notice of such motion has been given under Rule 10 of this Part 4D and signed by at least one quarter of Councillors.

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

Committees and  
sub-committees

16.1. This Rule does not apply to special meetings of Committees and Sub-Committees or to the Cabinet.

16.2. 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.

16.3. 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.

16.4. 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.

16.5. 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).

16.6. 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 Committees 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 16.3 of this Part 4D on the number of items shall not apply.

Overview and  
Scrutiny  
Committees

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

17.1. 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.

17.2. 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.

17.3. 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 17.1 or Rule 17.2 of this Part 4D):

17.3.1. a report on the matter has been circulated to the Council by that body;

17.3.2. the decision has become public knowledge; or

17.3.3. the matter comes within the powers of that body and a final decision has been made upon it.

## **18. Voting**

18.1. It is the responsibility of each councillor to properly inform themselves and ensure that they are sufficiently apprised of any matter before voting.

18.2. 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.

18.3. 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.

18.4. A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

18.5. A Councillor may require, after a vote is completed, that the minutes of the meeting record how they voted or abstained.

18.6. Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.

18.7. Any right of a Councillor who is appointed to any body of the Council to vote on a particular item may be limited by proceedings contained or identified in this Constitution.

18.8. For the avoidance of doubt, any Code or Protocol which is, or is identified as to be, incorporated into Part 6 of this Constitution shall be construed as being proceedings and part of these procedure rules.

18.9. Where an application falls to be determined by Planning Committee that is subject to the exercise of a Call-In power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by the Planning Committees.

## **19. Offices and Appointments**

19.1. 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.

19.2. 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.

19.3. The Chair, or person presiding, will have a second or casting vote where the votes are equal.

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

Any motion under Procedure Rule 10 (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

## **21. Suspension of Procedure Rules**

21.1. 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.

21.2. A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 11 of this Part 4D) unless there shall be present at least one-half of the Members of the Council or that Cabinet, 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.

## **22. Interpretation of Procedure Rules**

Subject to taking advice from the Monitoring Officer or their nominated representative, 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.

## **23. Substitute Members**

23.1. 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.

Committees and  
sub-committees

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

23.3. 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.

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

23.5. For the avoidance of doubt, there are no substitute arrangements in respect of the Cabinet and informal Consultative Groups.

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

Committees and  
sub-committees

24.1. 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.

24.2. 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.

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

## **25. Disorderly conduct by Councillors**

25.1. 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 for the item being debated" or "That the Councillor be not further heard for the remainder of the meeting". The motion, if seconded, shall be put and determined without discussion.

25.2. If the Councillor continues the misconduct after a motion under the Rule 25.1 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.

25.3. 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.

## **26. 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.

## **27. 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.

## **28. Overview and Scrutiny Committees/Sub-Committees**

In applying these Rules to the 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.

## **29. Site Visits and consideration of certain items at meetings - Planning Committees, Licensing Committee and Appeals Committee**

29.1. In so far as the law allows, the Planning Committee, Licensing Committee and Appeals Committee may each adopt one or more protocols / codes for establishing the arrangements and proceedings for any of the following purposes of that Committee or their Sub-Committees (if any):

- 29.1.1. the undertaking of a site visit; and
- 29.1.2. consideration of any matter relating to an actual or possible application, appeal and/or review for which it has responsibility including proceedings governing the consideration and assessment of any supporting information provided by a party in relation to any such matter.

29.2. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

29.3. A protocol / code may limit the voting ability of a Councillor who is appointed to any of those bodies in circumstances where the Councillor:

- 29.3.1. fails to attend the whole or any part of a site visit; and/or
- 29.3.2. is not present during the whole or any part of the consideration (including any officer presentation and/or public speaking) of an application, appeal and/or review (or related matter), including

where such an item falls to be considered over more than one meeting.

- 29.4. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

## **30. Protocol for the Establishment and Running of Combined In-person and Virtual Attendance Meetings**

### **Introduction**

- 30.1. 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.
- 30.2. The Procedure Rules should be read in conjunction with the Standing Orders and Procedure Rules within the Council's Constitution.

### **Notice of Meetings**

- 30.3. 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/>)
- 30.4. Councillors will be notified of a remote meeting by email and all agenda papers will be available on the Council's website.
- 30.5. 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**

- 30.6. 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.
- 30.7. 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.
- 30.8. It is important to note that the public accessing the meeting by remote means, as described in 30.7, is different from the public attending to exercise a right to

speaking. 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**

- 30.9. 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.
- 30.10. 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.
- 30.11. 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.
- 30.12. The attendance of those Councillors at the meeting will be recorded by the Democratic Services Officer.
- 30.13. The normal quorum requirements for meetings as set out in the Constitution will also apply to a remote meeting.
- 30.14. 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:
- 30.14.1. if it is, then the business of the meeting will continue; or
  - 30.14.2. 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.
- 30.15. 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.
- 30.16. 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.
- 30.17. 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.

30.18. Etiquette at the meeting is referred to further below.

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

30.19. 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.

30.20. 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.

30.21. 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.

30.22. 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.

30.23. 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.

30.24. A breakdown of the technology should not disadvantage the member of the public in remote attendance wherever possible.

### **Meeting Procedures**

30.25. 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.

30.26. 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.

30.27. 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.

30.28. 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.

30.29. 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.

30.30. Councillors are asked to adhere to the following etiquette during remote attendance at a meeting:

30.30.1. 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;

30.30.2. 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;

30.30.3. 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);

30.30.4. all Councillors must have their microphones muted when not talking;

30.30.5. 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;

30.30.6. Councillors will only speak when invited to by the Chair;

30.30.7. only one person may speak at any one time;

30.30.8. Councillors should turn on the microphone and also the video-feed (if available) then state their name before speaking; and

30.30.9. 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.

30.31. 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.



30.32. 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:

30.32.1. a vote by electronic means; or

30.32.2. 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.

30.32.3. by the general assent of the meeting.

30.33. 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**

30.34. 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**

30.35. 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.

30.36. 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.

30.37. 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**

30.38. 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 4E

# BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

## **E. Budget and Policy Framework Procedure Rules**

### **1. The Budget and Policy Framework**

- 1.1. The Budget and Policy framework refers to the financial and policy decisions of the Council where:
  - 1.1.1. the Leader and Cabinet makes recommendations for the budget decision to Full Council, and
  - 1.1.2. the Full Council makes the final decision to adopt the Leader and Cabinet's recommendations. If Full Council does not accept or fully accept the Leader and Cabinet's recommendations, the procedure below must be followed.
- 1.2. The Leader and Cabinet is responsible for the implementation of the Budget and Policy Framework.
- 1.3. The following rules are mandatory standing orders required to be adopted by the Council under the Local Authorities (Standing Orders) (England) Regulations 2001 to set out how the Budget Approval Rules will be agreed.

### **Policy Framework Decisions**

### **2. Leader and Cabinet policy proposals**

- 2.1. The Leader and Cabinet will formulate draft plan or strategy decisions with the support of officers and will determine whether to:
  - 2.1.1. Undertake public or other stakeholder engagement and / or consultation; and/or
  - 2.1.2. Proactively engage with Scrutiny, including as part of the annual overview and scrutiny work plan.
- 2.2. The Leader and Cabinet will take into account the outcome of these processes in the formulation of the draft plan or strategy made to Full Council.
- 2.3. The Leader and Cabinet will submit its draft plan or strategy to Full Council for adoption.

### **3. Council's Consideration of Leader and Cabinet draft plan or strategy**

- 3.1. Full Council will consider the draft plan or strategy and take one of the following decisions:
  - 3.1.1. Adopt the Leader and Cabinet's proposals and if so the draft plan or strategy is agreed as Council policy; or

- 3.1.2. Inform the Leader of any objections it has to the Leader and Cabinet's draft plan or strategy, including any amendments to the proposals.
- 3.2. If the Council has objections to the Leader and Cabinet's initial proposals, it must:
  - 3.2.1. Give the Leader instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
  - 3.2.2. Specify a period ("the relevant period") of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may reconsider the draft plan or strategy.

### **Leader's consideration of the Council's objections**

- 3.3. The Leader may, within the relevant period, give notice in writing to the Monitoring Officer of their intention to:
  - 3.3.1. submit a revised draft plan or strategy to Full Council including the reasons for any amendments; and
  - 3.3.2. inform Full Council of its disagreement with the Council's objections to the draft plan and strategy and the reasons for the disagreement.
- 3.4. If the Leader does not take the above action within the relevant period, the Council's decision on the draft plan or strategy (with any amendments) will become effective at the expiry of the relevant period and notice will be given in accordance with the Access to Information Rules.

### **Full Council's final decision**

- 3.5. If the Leader gives notice in writing to submit a revised draft plan or strategy, or disagrees with the Council's objections to the original draft plan or strategy, the Full Council must meet to reconsider and agree the plan or strategy either:
  - 3.5.1. at the next ordinary Council meeting; or
  - 3.5.2. at an extraordinary Council meeting for this purpose if a decision needs to be made at a sooner date.
- 3.6. The Council's final decision to adopt the plan or strategy must take into account, where applicable, the Leader's revised draft plan or strategy or disagreement with the Council's objections.

## **The Budget Framework: Setting the Annual Council Tax and Budget**

### **4. The Formulation of Budget Proposals**

- 4.1. In the financial year, the Leader and Cabinet with the support of officers will formulate draft budget proposals and will:
  - 4.1.1. determine the process for any public or other stakeholder engagement and / or consultation; and/or
  - 4.1.2. agree with Overview and Scrutiny Committees a process for the scrutiny of the proposals.
- 4.2. The Leader and Cabinet will take into account the outcome of these processes in the formulation of the draft plan or strategy made to Full Council.
- 4.3. The Leader and Cabinet will submit its draft budget proposals to Full Council in accordance with the following procedure.

### **5. Leader and Cabinet's Budget Estimates or Amounts**

- 5.1. Subject to the exception in Rule 9, in any financial year the Leader and Cabinet shall submit to Full Council for its consideration in relation to the following financial year:
  - 5.1.1. Estimates of the amount to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32-37 or 43-49 of the Local Government Finance Act 1992;
  - 5.1.2. Estimates of other amounts to be used for the purpose of such a calculation;
  - 5.1.3. Estimates of such a calculation; or
  - 5.1.4. Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992.
- 5.2. The proposals at 5.1 shall be called collectively the "Budget Estimates or Amounts".

### **6. The Budget Setting Meeting: Full Council's Consideration of the Budget Estimates or Amounts**

- 6.1. The Full Council shall consider the Budget Estimates or Amounts at its annual budget setting meeting.
- 6.2. If the Full Council approves the Budget Estimates or Amounts without amendment, this decision will be final.

6.3. If the Full Council has any objections to the Budget Estimates or Amounts, it must:

- 6.3.1. before it makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in 5.1 above or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992;
- 6.3.2. inform the Leader of any objections which it has to the Budget Estimates or Amounts; and give the Leader instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

## **7. Leader's Revised Budget Estimates or Amounts**

7.1. Where the Council gives instructions in accordance with rule 6 above, it must specify a period ("the relevant period") of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may:

- 7.1.1. submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with Full Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the authority for Full Council's consideration; or
- 7.1.2. inform the Full Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

## **8. Full Council's Consideration of the Leader's Revised Budget Estimates or Amounts**

8.1. The Full Council must meet after the expiry of the relevant period to make calculations (whether originally or by way of substitute) in accordance with the sections referred to in 5.1 above or issue a precept under Chapter IV of Part I of the Local Government Finance Act 1992.

8.2. When making the decisions at 8.1, Full Council must take into account the Leader's submissions under Rule 7 including:

- 8.2.1. any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- 8.2.2. the Cabinet's reasons for those amendments;
- 8.2.3. any disagreement that the Cabinet has with any of the Council's objections; and
- 8.2.4. the Cabinet's reasons for that disagreement.

## **9. Exclusions**

9.1. Rules 5 to 8 shall not apply in relation to -

- 9.1.1. calculations or substitute calculations which an Authority is required to make in accordance with Section 52I, 52J, 52T or 52U of the Local Government Act 1992; and
- 9.1.2. amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## **10. Recorded Vote**

10.1. A recorded vote will be held for any vote taken at the Council's budget setting meeting, including in respect of amendments.

## **11. Decisions outside the Budget or Policy Framework**

- 11.1. Subject to the provisions of the Financial Regulations (Part 5 of the Constitution), the Cabinet, individual portfolio holders, individual officers, committees or joint arrangements discharging executive functions may only take decisions which are in line with the approved Budget.
- 11.2. If any of those bodies or persons wishes to make a decision which is contrary to the approved Budget Approval Rules, the decision may only be taken by Council, subject to the Rule below in respect of urgent decisions outside the Budget and Policy Framework.
- 11.3. If those bodies or persons detailed above want to make a decision which is or may be contrary to the Budget Approval Rules, they shall first consult and take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Budget Approval Rules.
- 11.4. If the advice of the Monitoring Officer or the Section 151 Officer is that the decision would not be in line with the existing Budget Approval Rules, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 12 below (urgent decisions outside the Budget Approval Rules) shall apply.
- 11.5. Council may either:
  - 11.5.1. endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget Approval Rules. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - 11.5.2. amend the budget framework or policy concerned to encompass the decision or proposal of the decision taker responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the



- 11.5.3. Council be minuted and circulated to all councillors in the normal way; or
- 11.5.4. where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to, or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the decision taker to reconsider the matter in accordance with the advice of either the Monitoring Officer/Section 151 Officer and refer it back to the Cabinet. The decision taker must reconsider within 7 working days of the Council meeting; and
- 11.5.5. Whatever decision the Cabinet takes at that meeting is final, bearing in mind that a decision taken outside the Budget Approval Rules will be unlawful.

## **12. Urgent decisions outside the Budget**

- 12.1. The Leader, the Cabinet, a Cabinet Committee, an individual member of the Cabinet, officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken if:
  - 12.1.1. any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest;
  - 12.1.2. it is not practical to convene a quorate meeting of the Full Council within the Access to Information Rules; and
  - 12.1.3. the Chair of a relevant Overview and Scrutiny committee agrees that the decision is a matter of urgency.
- 12.2. The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the relevant Overview and Scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 12.3. Following the decision, the decision taker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **13. Virement**

- 13.1. Budget virement means a process of transferring budgeted sums from one budget line to another in the light of experience or to reflect anticipated changes. The Council's rules on virement are set out in the Financial Regulations (Part 5 of the Constitution), Corporate Scheme of Financial Delegation, Appendix 1.

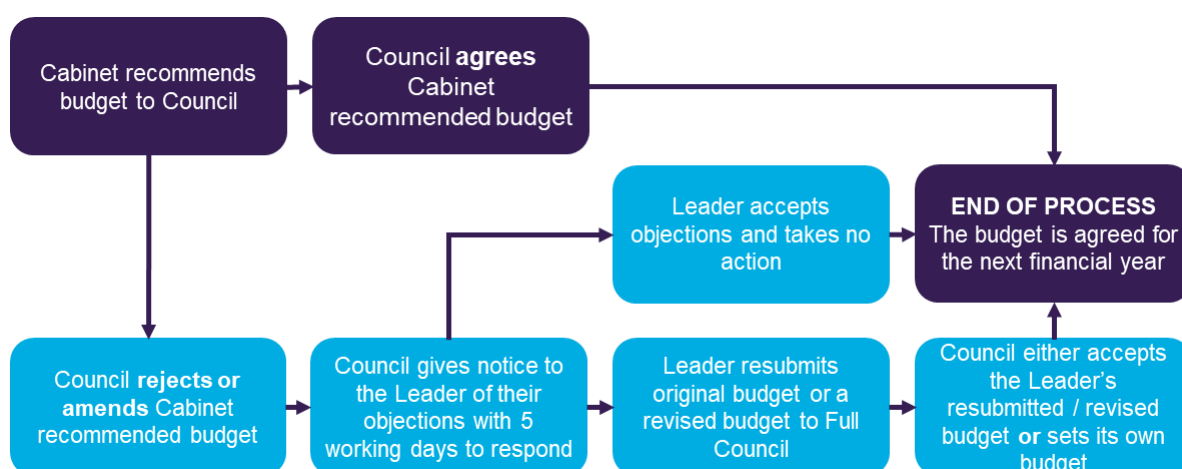
## **14. In-year changes to Policy Framework**

- 14.1. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- 14.1.1. which will result in the closure, amendment or discontinuance of a service or part of a service to meet a budgetary constraint;
- 14.1.2. are necessary to ensure compliance with the law, ministerial direction, or government guidance; and
- 14.1.3. which are within the scope set out for in year changes in the policy document in question, or when the policy document was approved by Full Council.

## 15. Summary explanatory note and diagram : Budget and Policy Framework

- 15.1. The Budget and Policy Framework is the framework which sets out arrangements for the adoption and implementation of the Council's Budget, policies, plans and strategies.
- 15.2. These are decisions where both Full Council and the Leader and Cabinet have a role in the decision making:
  - 15.2.1. The Leader and Cabinet develop and recommend the Budget and Policy Framework decision to Full Council for approval; and
  - 15.2.2. The full Council makes the final decision.
- 15.3. The specific financial and policy decisions that are reserved for Council are set out in regulations and in Parts 3 and 5 of the Constitution.
- 15.4. Once decisions are agreed, the Leader and Cabinet has responsibility for implementing the framework.
- 15.5. The rules provide for the process to be followed if the Council disagrees with any of the Leader and Cabinet's recommendations. A summary of the budget process is set out as an example:



## PART 4F

# OFFICER EMPLOYMENT PROCEDURE RULES

## **F. 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 (as amended) ("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 (as amended).

## **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.

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# PART 5

## FINANCIAL REGULATIONS

# BOURNEMOUTH, CHRISTCHURCH AND POOLE (BCP) COUNCIL



## FINANCIAL REGULATIONS

Live from 01-04-2025 (EVO25v1.2)

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<b>PART E</b>	<b>INTERNAL CONTROL, AUDIT AND RISK MANAGEMENT</b>
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<b>APPENDIX 3</b>	<b>MINOR AMENDMENTS AND EDITING LOG</b>

Within these Regulations **Chief Finance Officer (CFO)** means:

- Officer with statutory responsibility for the proper administration of the Council's financial affairs in accordance with S151 of the Local Government Act 1972, i.e. Chief Operating Officer.
- Or those officers authorised to act on their behalf. (in accordance with Financial Services Scheme of Delegation)

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## PART A STATUS OF FINANCIAL REGULATIONS

### PURPOSE

- 1 These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs.

### STATUTE

- 2 The Local Government Act 1972 (Section 151) makes the Chief Finance Officer (CFO) responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities and form part of the Council's Constitution (part 5).

### SCOPE

- 3 The Regulations set out the Council's requirements in respect of:
  - Financial management roles and responsibilities
  - Financial planning and budgeting
  - Financial monitoring and control
  - Internal control, audit and risk
  - Financial systems and procedures
  - Procurement activity
  - External arrangements
- 4 The Regulations apply to the control of both the General Fund finances (including BCP maintained schools) and the Housing Revenue Account (including any neighbourhood accounts therein). Wholly owned companies of BCP Council will adhere to the Regulations unless exceptions are agreed by their respective Boards.
- 5 Appendix 1 to the Regulations comprises the 'Corporate Schedule of Financial Delegations' which sets out the approved financial limits within which officers and councillors may conduct the Council's business. This schedule does not apply to BCP maintained schools who will operate their own schemes of delegation and other processes such as procurement decisions and waiver sign off of Part G to these Regulations vary accordingly.
- 6 The Regulations are supported by a series of financial procedures and strategies which provide more detailed direction on the arrangements in respect of:
  - Anti-fraud and corruption policy (including money laundering guidance and reporting)
  - Risk management strategy
  - Financial document retention
  - Income collection and local debt recovery systems
  - Asset management including disposals and acquisitions
  - Procurement strategy and code

### COMPLIANCE

- 7 These Regulations, and the appendices, apply to every councillor and officer of the Council and to anyone acting on its behalf, including agencies and partnerships with whom the Council does business and for whom the Council is the relevant accounting body.
- 8 All councillors and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is undertaken in accordance with the law, properly authorised, and achieves value for money. In doing so, proper consideration must be given at all times

to matters of probity and propriety in managing the assets, income and expenditure of the Council.

- 9 Failure to comply with any part of these Regulations may constitute misconduct and lead to formal disciplinary action.
- 10 The term 'Manager' used throughout the Regulations refers to members of the Council's extended management team including the Chief Executive, Corporate Directors, Service Directors, Heads of Service and Team Managers as appropriate and as they relate to the specific matters set out within these Regulations. For maintained schools the Governing Body is defined as the 'Manager' for the purposes of these Regulations.
- 11 If decisions have been formally delegated to others, such as to The Head Teacher or to individuals as specified in Service Schemes of Delegation, reference to the term 'manager' in these Regulations should be read as referring to them.

## **MAINTAINING AND UPHOLDING THE REGULATIONS**

- 12 The CFO is responsible for:
  - a. Maintaining and updating these Regulations and the Corporate Schedule of Financial Delegations. Minor amendments and editing changes, including in year changes necessary to align with new or revised legislation or UK law, are logged on page 61.
  - b. Ensuring that any revisions affecting the powers of councillors are approved by Council on the recommendation of the Council Leader and in consultation with the Monitoring Officer (MO).
  - c. Reviewing and reissuing the financial procedures as necessary to support the effective operation of these Regulations.
  - d. Reporting, where appropriate, any breaches of these Regulations to councillors on at least an annual basis.
  - e. Interpreting and/or arbitrating should any uncertainty or dispute arise pursuant to these Regulations in consultation with the MO.
- 13 The Regulations are subject to an annual 'evolution' which will be approved by Council and will incorporate:
  - a. Minor amendments and editing changes, described at 12a above, into the relevant section of the Regulations.
  - b. Changes of a more fundamental nature, as identified by a proportionate officer working group made up from representatives of Services and Schools.
- 14 For transparency purposes all changes in the annual 'evolution' will be flagged using red text, this will enable both experienced and inexperienced users of the Regulations to clearly identify where changes have occurred year on year. Changes from previous years 'evolution' will be incorporated into standard colour text, only the latest 'evolution' is shown in red text.



## PART B FINANCIAL MANAGEMENT ROLES & RESPONSIBILITIES

### PRINCIPLES

- 1 A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.
- 2 All councillors and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public monies.

### COUNCILLORS

- 3 Councillors' responsibilities for the overall management of the Council's financial affairs are exercised through:
  - **Council**, which is responsible for approving the Council's Key Policy Framework as defined within the Constitution and for setting the budget.
  - **The Leader and Cabinet – “the Executive”**, which is responsible for recommending the key policy framework and budget to Council; making decisions in respect of the executive functions of the Council in accordance with the Key Policy Framework and Budget approved by Council. Executive decision making can be delegated to a formally constituted committee of the Cabinet, an individual cabinet member, an officer or a joint committee in accordance with the Scheme of Delegation as set out in the Council's Constitution.
  - **The Audit & Governance Committee**, which is responsible for maintaining a continuous review of the Council's regulatory framework, approving the Annual Statement of Accounts for publication, oversight of audit, governance, counter fraud and corruption, risk management and treasury management activity. This Committee's full functions and responsibilities are set out in Appendix 2.
  - **The Standards Committee**, which is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Councillors' Code of Conduct, and for monitoring the operation of the Code.

### OFFICERS

- 4 Officer responsibilities for the overall management of the Council's financial affairs are variously set out by legislation, the provisions of the Council's Constitution and the Council's Corporate and Service Schemes of Delegation.
- 5 Certain legislation requires the Council to designate particular officers as the 'appropriate officer' for the performance of certain functions. 'Appropriate Officer' functions include the responsibilities of the Head of Paid Service (HPS), the Monitoring Officer (MO) and Chief Finance Officer (CFO) in managing the overall financial affairs of the Council. Formal recognition is also given to the particular responsibilities and functions of the Council's Chief Internal Auditor (CIA) in accordance with best practice advice and guidance. The role of the CIA is set out in CIPFA's 'The Role of The Head of Internal Audit'.

## **THE HEAD OF PAID SERVICE (HPS)**

- 6 The HPS is designated as the Chief Executive and is responsible for the corporate and strategic management of the Council. The HPS is responsible for establishing the management style, direction and leadership of the organisation including overall staff management arrangements, monitoring performance and achievement. The HPS is responsible, together with the MO, for the system of record keeping in relation to Councils' decisions.

## **THE MONITORING OFFICER (MO)**

- 7 The MO is responsible for promoting and maintaining high standards of financial conduct and provides support to the Standards Committee. The MO is also specifically responsible for:
- a. Reporting any actual or potential breaches of the law or maladministration to Council and/or to Cabinet.
  - b. Ensuring that procedures for recording and reporting key decisions are operating effectively.
  - c. Ensuring that Cabinet decisions and the reasons for them are made public.
  - d. Ensuring that all councillors are aware of decisions made by the Cabinet and of those made by cabinet member, officers, or a joint committee which has delegated Cabinet responsibility.
  - e. Advising all councillors and officers about who has authority to take a particular decision.
  - f. Maintaining an up-to-date Constitution and reporting any proposed changes to Council for approval.

## **THE CHIEF FINANCE OFFICER (CFO)**

- 8 The CFO has statutory and delegated duties in relation to the financial administration and stewardship of the Council. The statutory responsibilities cannot be overridden and arise from:
- Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 2015 (and as amended)
  - The Local Authorities Goods and Services Act 1970
  - The Local Government Acts 2000 and 2003
  - The Localism Act 2011
- 9 The CFO's responsibilities include:
- a. The proper administration of the Council's financial affairs including all arrangements concerning financial planning, financial control, accounting, taxation, income, debt management, insurances, investments, banking, bonds, loans, leasing, borrowing, trust and pension funds, and the payment of creditors, salaries, wages and pensions.
  - b. Determining the contents of Financial Procedures and ensuring compliance with these and Financial Regulations.
  - c. Preparing the Revenue Budget and reporting to the Council on the robustness of the estimates and the adequacy of reserves.

- d. Preparing the Capital Programme, ensuring effective forward planning and sound financial management in its compilation.
  - e. Ensuring that accurate and timely financial information is available to enable effective budget monitoring and reporting and taking action if overspends or shortfalls in income emerge.
  - f. Reporting to Council if it is likely that any proposed action or decision will lead to unbudgeted or unlawful expenditure or activity.
  - g. Advising on the systems of internal control necessary for sound financial management and decision making, and to ensure that public funds are properly safeguarded and used economically, efficiently, and effectively.
  - h. Maintaining an adequate and effective internal audit function and effective counter theft, fraud and corruption arrangements.
  - i. Preparing the Council's risk management strategy and advising on the management of strategic, financial and operational risks.
  - j. Determining the accounting procedures and records for the Council and ensuring that they are applied consistently.
  - k. Preparing and publishing the Council's annual statement of accounts and governance statement for approval by Audit & Governance Committee in accordance with all applicable codes of practice on local authority accounting.
  - l. Making proper arrangements for the audit of the Council's accounts in accordance with statutory and legislative provisions.
  - m. Preparing and implementing an effective treasury management strategy and effecting all investments and borrowings within the limits imposed by the Council.
  - n. Advising on, monitoring and reporting on performance in relation to Prudential Indicators set by the Council for capital expenditure, external debt and treasury management.
  - o. Ensuring that effective asset management arrangements are in place.
  - p. Advising on the risks and financial implications associated with joint working, external funding and trading opportunities.
- 10 The CFO may allocate their day-to-day responsibilities to an appropriate representative in accordance with the Financial Services Scheme of Delegated Authority to Officers and/or the Corporate Schedule of Financial Delegations.

## THE CHIEF INTERNAL AUDITOR (CIA)

- 11 The CIA is designated by the CFO as part of the Service Scheme of Delegation further to Part 3 (Schedule 1) of the Council's Constitution and plays a key role in providing assurance to the councillors, the CFO, the HPS and Corporate Management Board about the probity, practical deployment and effectiveness of financial management at the Council.
- 12 The CIA has rights of access to all **Council premises and property, and to** information and data held by officers or councillors of the Council at all reasonable times and is responsible for the overall co-ordination and deployment of external and internal audit resources at the Council. The CIA also has the right to report on any relevant matter of concern to senior management and councillors outside normal line management arrangements should they deem this necessary in protecting the interests of the Council and/or local taxpayers.

## MANAGERS

- 13 Whilst the CFO has overall responsibility for the finances of the Council, managers are responsible for the day-to-day management of their respective Unit's finances. Their responsibilities in relation to financial management include:
- a. Promoting and ensuring compliance with these Regulations and associated Financial Procedures and taking corrective action in the event of any non-compliance.
  - b. Preparing annual Revenue Budget estimates and Capital Programme estimates in accordance with the guidance issued by the CFO.
  - c. Ensuring that the financial implications of all proposals, or any matter which is liable to materially affect the resources of the Council, are agreed with the CFO or their nominated representative in advance of any decision making report to councillors.
  - d. Managing service delivery and containing expenditure within the agreed revenue and capital budgets.
  - e. Maintaining sound systems of internal control and implementing agreed internal and external audit recommendations.
  - f. Complying with the Council's counter theft, fraud and corruption policy and reporting suspected fraud and financial irregularities immediately to internal audit for investigation.
  - g. Complying with the Council's risk management strategy and notifying the CFO immediately of significant risks to the Council's financial position.
  - h. Ensuring that all financial transactions are recorded through the main accounting system.
  - i. Assisting cash flow through timely billing of income due and minimising advance payments wherever possible.
  - j. Ensuring that all expenditure incurred complies with the requirements of these Regulations, the procurement code and has the necessary budgetary approval.
  - k. Controlling resources and containing staff numbers within approved establishment and budget levels and ensuring that all employee appointments and payments are properly authorised in compliance with the Council's policies.
  - l. Ensuring that all claims for funds, including grants, are compiled and submitted by the due dates.
  - m. Ensuring the proper security and safe custody of all assets under their control.
  - n. Ensuring that the risks and financial implications associated with joint working, external funding and trading opportunities are properly evaluated, and that no such arrangements are entered into without the prior approval of the CFO.
  - o. Ensuring that financial authorities are operated in accordance with the limits contained within the Corporate Schedule of Financial Delegations (Appendix 1), and that a written record of authorised officers is maintained.

## ALL EMPLOYEES

- 14 In addition to the specific responsibilities set out above the Council expects all employees to:
- a. Act in good faith, adopting the highest standards of integrity, propriety and impartiality in accordance with the 'Nolan principles' (7 principles of public life which apply to all people appointed to work in local government).

### **1. Selflessness**

Holders of public office should act solely in terms of the public interest.

## **2. Integrity**

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

## **3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

## **4. 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.

## **5. 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.

## **6. Honesty**

Holders of public office should be truthful.

## **7. 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.

- b. Exercise due care in relation to all resources, assets, income and expenditure within their care or control.
- c. Ensure that proper records and documentation are maintained of the Council's assets and financial transactions in accordance with advice and requirements of the CFO.
- d. Comply with these Regulations, the associated financial procedures and any additional guidance issued to ensure the effective control of the Council's resources.
- e. Co-operate in audits of the Council's financial systems.
- f. Report any suspected financial irregularities for investigation to the Chief Internal Auditor.

### PRINCIPLES

- 1 The purpose of financial planning and budgeting is to set out and communicate the Council's objectives, resource allocations and related performance targets, and to provide an agreed basis for subsequent management control, accountability and reporting.
- 2 Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. The Budget is the financial expression of the Council's ambitions and priorities. The budget process must ensure that resources are:
  - Required in accordance with the law and properly authorised.
  - Used only for the purpose of achieving approved policies, objectives and service priorities.
  - Held securely for use when required.
  - Used appropriately to avoid waste, inefficiency and/or loss.

It is unlawful for the Council to budget for a deficit.

- 3 As such the Budget sets agreed parameters around the annual resource allocations, activities and functions of Services and is constructed within the context of a medium term financial plan (MTFP). The MTFP represents a multi-year forecast (usually 3 or more years) to identify and address those issues which have medium to long term implications for the Council.
- 4 The Capital Programme sets out the resource allocations to be made to capital schemes. Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the organisation, such as land, buildings, and major items of plant, equipment and vehicles.
- 5 To enable councillors to make informed decisions, all Council, Cabinet and Committee reports must incorporate a separate section on 'financial implications'. Reports must show the costs or savings of proposals together with any approved budget provision, future commitments, potential risks, tax implications, and any other financial consequences which may arise from the options and recommendations and must be produced in consultation with the CFO or their nominated representative.

### COUNCILLORS

- 6 Councillors' responsibilities for financial planning and budgeting are exercised through:
  - **Council**, which is responsible for approving the Council's key policy framework and for setting the Budget. This approval encompasses:
    - All the plans and strategies making up the Policy Framework, including the Council's corporate plan/strategy.
    - The MTFP.
    - The revenue budget (The Budget), proposed by the Cabinet to Council for approval on the advice of the CFO. The Budget will include details of proposals for local taxation levels, contingency funds and use of and levels of all reserves.
    - The capital budget (The Capital Programme).

Council may amend the Budget and the Capital Programme or ask the Cabinet to reconsider it before approving in exceptional circumstances in consultation with the CFO. Any councillor or group of councillors who wish to submit alternative budget proposals must do so no less than 3 clear working days before the Budget setting meeting. The CFO will only support alternative proposals which deliver a balanced budget to be taken forward to the Council for consideration.

- **The Cabinet** is responsible for proposing the key policy framework and budget to Council. Cabinet is also responsible for monitoring performance against revenue and capital budgets and taking executive decisions to deliver priorities, within the Budget and key policy framework agreed by the Council. It is responsible for issuing guidance on the detail of the Budget in consultation with the CFO as soon as possible following the Budget's approval by Council.

## REVENUE BUDGET (THE BUDGET)

7 The CFO is responsible for:

- a. Advising the Council on the Cabinet's budget proposals in accordance with their responsibilities under S151 of the Local Government Act 1972. (Council may amend the Revenue Budget or ask the Cabinet, in consultation with the CFO, to reconsider it before approving)
- b. Ensuring that an annual Revenue Budget and Council Tax Report are prepared in the context of a medium term financial plan for consideration by Cabinet and approval by Council.
- c. Maintaining a resource allocation process that properly reflects the Council's policy framework, ambitions and priorities.
- d. Advising the Cabinet on the format of the budget and its responsibility for issuing guidance on budget preparation taking due account of:
  - legal requirements
  - medium-term planning prospects and known issues
  - the corporate strategy and Council priorities
  - available resources
  - spending pressures
  - government initiatives and public policy requirements
  - internal policy directives
- e. Advising the Cabinet and Council on a prudent level of reserves and any appropriate contingency provisions.
- f. Undertaking the statutory consultation with NDR payers.
- g. Issuing detailed procedures to managers on the preparation of Revenue Budget estimates.

8 Managers are responsible for:

- a. Preparing annual Revenue Budget estimates in accordance with the guidance issued by Cabinet and the detailed procedures issued by the CFO, ensuring that these are a realistic reflection of agreed priorities, and advising cabinet members on service implications. (see d. above)
- b. Establishing detailed budgets for each service area in advance of the financial year (along with indicative estimates for the two years thereafter) and requiring such budgets to be properly managed by responsible named budget holders.
- c. Integrating financial and budget plans with service planning.
- d. Ensuring that any earmarked reserves held are applied to their intended purposes.
- e. Giving due and proper regard to the asset management concerns of the wider organisation in planning service delivery, consulting in advance with the Corporate

Property Officer (CPO) in any financial planning or budgeting decision to be made relating to the use of Council land and property.

## **CAPITAL BUDGET (THE CAPITAL PROGRAMME)**

9 The CFO is responsible for:

- a. Ensuring that a multi-year rolling Capital Programme (usually 3,4 or 5 years) is prepared for consideration by the Cabinet for recommendation to Council for approval as part of the MTFP and annual budget setting process.
- b. Issuing strategic guidance on capital schemes and controls and defining what will be regarded as capital having proper regard to Government regulations and accounting conventions.
- c. Issuing detailed guidelines which take account of legal, regulatory and code of practice requirements, medium-term planning prospects, affordability and whole life costing.
- d. Ensuring that the revenue implications of the Capital Programme are contained within the Revenue Budget and MTFP.
- e. Ensuring that all schemes relying on the use of prudential borrowing powers are properly appraised and provide value for money.
- f. Reporting to Cabinet on the overall position and the availability of resources to support the Capital Programme.
- g. Issuing detailed procedures to managers on the preparation of capital budget estimates.
- h. Ensuring that sources of funding (general fund, capital grants, self-financing, etc.) are identified for the entire Capital Programme.

10 Managers are responsible for:

- a. Complying with the guidance issued by the CFO regarding capital schemes and controls and in the preparation of the Capital Programme.
- b. Ensuring that all capital schemes put forward for consideration have been properly appraised and that each scheme and estimate includes a project plan, progress targets, and sets out the funding sources including all associated revenue expenditure.
- c. Undertaking a comprehensive annual review of the Capital Programme and consequential revenue expenditure, for inclusion in the MTFP.

## **FINANCIAL IMPLICATIONS OF DECISIONS**

11 The CFO is responsible for:

- a. Issuing guidance in relation to the presentation of financial implications within the Council's decision making processes.
- b. Ensuring the adequacy of the financial implications information presented within individual decision making reports and for appropriate sign-off.

12 Managers are responsible for:

- a. Ensuring that all decision making reports properly set out the financial implications of the proposed actions in accordance with guidance issued by the CFO.
- b. Arranging for all financial implications to be validated and formally signed-off by the CFO, or their nominated representative, prior to their progression through the approval process.
- c. Consulting with relevant parties where there may be financial implications for other cabinet members, committees or services.



### PRINCIPLES

- 1 To ensure the Council does not exceed its overall budget, Services (and appropriate corporate projects and programmes where relevant) are required to manage their own income and expenditure within the cash limited budgets allocated to them to be spent on agreed service activities and functions.
- 2 Any forecasted revenue overspends, or income shortfalls should be mitigated through a compensating underspend or over-achievement of income elsewhere. Any under-spending or over-achievement of income cannot be carried forward from one year to the next without the approval of the CFO and should generally be restricted to specific items of a 'one off' nature where monies will be spent for an identified purpose in the following financial year.
- 3 No expenditure may be incurred on a capital project unless the project has been approved in accordance with the Corporate Schedule of Financial Delegations (Appendix 1) or as part of the annual Council approval of the Capital Programme. Any forecast overspending must be contained within the overall Capital Programme and reported to the approved senior officer Capital Programme Board. Similarly, variations to the approved budgets for capital schemes and re-phasing or slippage between years must be reported to the approved senior officer Capital Programme Board and approved in accordance with the limits set out in the Corporate Schedule of Financial Delegations (Appendix 1).
- 4 The term virement refers to transfers of budgets between or within cost centres. Virement may only be used in the very specific circumstances set out in the Regulations and the Corporate Schedule of Financial Delegations (Appendix 1).

### CONTROL OF REVENUE BUDGETS

- 5 The CFO is responsible for:
  - a. Establishing and maintaining a robust framework of budget management and control which ensures that:
    - Budget management is exercised within annual cash limits and the MTFP.
    - Appropriate, accurate and timely information is available to Corporate Management Board, managers and budget holders that enable budgets to be monitored and controlled effectively.
    - Revenue expenditure is recorded on the Council's financial systems and is committed only against approved budget headings and associated structure of detailed cost centres.
    - All officers responsible for committing expenditure comply with these Regulations.
    - Each cost centre is allocated to a named budget holder determined by the relevant manager.
    - Significant variances from budget are investigated and reported by budget holders on a regular basis.
  - b. Monitoring and controlling the quantum of income and expenditure against budget allocations overall. They must ensure monitoring reports are prepared for Corporate Management Board and councillors' consideration on a regular basis

throughout the financial year (to be determined and advised by the CFO) and a report after the year end setting out the revenue outturn.

- c. Ensuring that budget monitoring reports include:
- Sufficient information and explanatory notes to allow cabinet members to fully exercise their duties in respect of the resources for which they have portfolio responsibilities.
  - Explanations of all variations to cost centres which are projected to be in excess of £100,000.
  - Information which summarises the delivery of any savings programmes.
  - Information which summarises available contingencies, balances and reserves.

6 Managers are responsible for:

- Ensuring that effective budgetary control arrangements exist and are observed within their respective Service, or in respect of any projects or programmes for which they are responsible in accordance with these Regulations.
- Ensuring spending remains within the relevant cash limits by controlling income and expenditure, monitoring performance and taking corrective action where variations from budget are forecast.
- Ensuring that expenditure is coded correctly and committed only against approved budget headings.
- Supporting the regular reporting of financial performance, variances, and forecasts within the areas of their responsibility to Cabinet by the CFO.
- Reporting to Cabinet and Council as necessary the financial implications of any new in-year proposal or amendment that will:
  - Create financial commitments in future years;
  - Change existing policies, initiate new policies or result in existing policies ceasing to operate;
  - Materially extend or reduce the Council's services.

## **CONTROL OF CAPITAL BUDGETS**

7 The CFO is responsible for:

- Ensuring that governance arrangements are in place to regularly review progress against the Capital Programme.
- Maintaining a record of the current capital budget and expenditure on the Council's financial systems and ensuring compliance with financial reporting standards.
- Reporting to Cabinet the financial position against the approved Capital Programme.
- Ensuring that governance arrangements are in place, via an approved senior officer Capital Programme Board, to review proposed changes to the Capital Programme before subsequent approval by Cabinet.

8 Managers are responsible for:

- Ensuring that no expenditure is incurred on a capital project prior to its agreed inclusion within the Capital Programme and until a financial report has been approved by Cabinet. Equally, no scheme requiring Government or other body sanction and/or funding either in full or part may begin until the sanction and/or funding has been officially confirmed.
- Support the monitoring and reporting of capital expenditure and receipts against approved capital budgets, on project slippage and variations, and on any changes in projected expenditure.

- c. Reporting to Cabinet if proposed sources of funding are not secured.
- d. Ensuring that adequate records and audit trails are maintained in respect of all capital contracts.

## **VIREMENT**

- 9 The term virement refers to transfers of resources between or within approved cost centres or budget headings and Service/Business Plans for both revenue and capital purposes. A virement does not create any net additional budget. Instead the virement mechanism exists to enable the Cabinet, Managers and their staff to manage their budgets with a degree of flexibility within the overall Policy Framework and Budget set by Council, thereby optimising the use of resources throughout the financial year. The virement schemes for revenue and capital do not exist as a means of remedying poor budgetary control or financial planning for known commitments and service priorities, or otherwise excuse Managers and budget holders from the need to manage their budgets prudently and responsibly. Nor may virements be affected after the year end to retrospectively fund over or under spending unless approved in advance by the CFO.
- 10 The CFO is responsible for:
  - a. Controlling and administering the virement mechanism in accordance with guidance and limits set out in the Corporate Schedule of Financial Delegations, Appendix 1.
  - b. Recording approved virements in the Council's financial systems and reflecting the impact of these in budget monitoring reports to the Cabinet.
- 11 Managers are responsible for:
  - a. Ensuring all proposed virements complies with the limits and approval requirements set out in the Corporate Schedule of Financial Delegations, Appendix 1.
  - b. Notifying all proposed virements in writing to the CFO or their representative.
- 12 Council shall approve allocations of resources from approved contingencies and reserves in excess of the approved contingencies and reserves recommended by Cabinet.
- 13 Cabinet shall approve allocations of resources from approved contingencies and reserves.

## **REVENUE CARRY FORWARDS (VIREMENTS) BETWEEN YEARS**

- 14 Medium term financial planning (usually between 3 to 5 years) allows the Council to think beyond the constraints of any given financial year and annual budget and prepare for future events. In doing so it is important to ensure a suitable mechanism to allow for the carry forward of in-year budget under or overspends - in effect a virement of resources between accounting years – as deemed necessary by the CFO for MTFP purposes. The ability to choose to do so can serve to:
  - Empower budget holders to think beyond immediate service needs and plan over longer time frames to achieve significant changes and improvements and make best use of resources.
  - Hold budget holders to account for their budget management performance in so far as budget overspends will not be written down at the end of each financial year but will have to be dealt with on an on-going basis.

- 15 Carry forwards (virements) between years are not 'automatic' and will not be routinely determined. Where they are determined to be necessary by the CFO, in the context of the MTFP, and are subsequently approved by the Cabinet:
- Carry forward (previous year) overspending will constitute a first call on in year service budgets.
  - Carry forward (previous year) underspending must normally be spent in year on one-off proposals/projects usually of an 'invest to save' nature aimed at reducing on-going service pressures in future.
- 16 All internal surpluses arising from in-house trading activities/business units shall be retained for the benefit of the Council subject to any provision to do otherwise set out in the MTFP.
- 17 BCP maintained schools' balances will be treated in accordance with the provisions set out in the DfE Framework.as agreed and applied locally in the Scheme for Financing Schools.

## PART E INTERNAL CONTROL, AUDIT AND RISK MANAGEMENT (including prevention of theft, fraud and corruption)

### PRINCIPLES

- 1 Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives, and the safeguarding of public funds.
- 2 Audit is a key management tool that councillors and senior officers should rely on to provide an independent and objective assessment of the probity, legality and value for money of Council arrangements.
- 3 Legislation requires that the Council provides for both internal and external audit.

**External audit** provides an independent assessment of the Council's financial statements and the adequacy of its arrangements for securing value for money.

**Internal audit** evaluates and reports on the adequacy of the Council's control systems in securing the proper, economic, efficient and effective use of resources.

- 4 There is a basic expectation that councillors and all officers will act with integrity and with due regard to matters of probity and propriety, and comply with all relevant rules, regulations, procedures and codes of conduct, including those in relation to receipt of gifts and hospitality and declaration of conflicts of interest.
- 5 The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by councillors, employees, customers of its services, third party organisations contracting with it, or other agencies or individuals with which it has any business dealings.
- 6 Risk management is an integral part of effective management and planning. It is concerned with identifying and managing key obstacles to the achievement of objectives.

### COUNCILLORS

- 7 Councillors' responsibilities for internal control, audit and risk management are exercised through:
  - **Council**, which has formal responsibility for upholding proper practice and the good governance of the Council as a whole.
  - **The Cabinet**, which is responsible for ensuring effective systems of management and financial control are exercised across the organisation.
  - **The Audit & Governance Committee**, which is responsible for keeping under review all aspects of the Council's audit and governance arrangements, risk management framework and internal control environment. A full list of the Audit & Governance Committee's responsibilities can be found at Appendix 2.
- 8 Councillors have a role to support and promote a zero-tolerance culture towards theft, fraud and corruption.

## INTERNAL CONTROL

9 The CFO is responsible for:

- a. Advising on effective systems of internal control to ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with statutes, regulations and other relevant statements of best practice.
- b. Conducting an annual review of the effectiveness of the system of internal control and publishing the results of this within the Annual Governance Statement (AGS) for inclusion in the Council's Annual Statement of Accounts.

10 Managers are responsible for:

- a. Implementing effective systems of internal control including adequate separation of duties, clear authorisation levels, and appropriate arrangements for supervision and performance monitoring.
- b. Complying with the controls set down in these Regulations and any financial procedures.
- c. Taking corrective action in respect of any non-compliance by staff with relevant rules, regulations, procedures and codes of conduct.
- d. Planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their objectives, standards and targets.

## INTERNAL AND EXTERNAL AUDIT (and other inspections)

11 The CFO is responsible for:

- a. Maintaining an adequate and effective internal audit service in accordance with the Accounts and Audit Regulations Act 2015 and further to Section 151 of the Local Government Act 1972.
- b. Ensuring that the rights and powers of internal and external auditors and fraud investigators are upheld at all times across the organisation.
- c. Ensuring that the statutory requirements for external audit are complied with and that the external auditor is able to effectively scrutinise the Council's records.
- d. Ensuring that audit plans and resulting activities are reported to the Audit & Governance Committee.

12 The CIA is responsible for:

- a. Notifying the External Auditors of any matter that they would rightly expect to be informed of in order to support the function of an effective and robust external audit service.
- b. Ensuring effective liaison between internal and external audit functions.
- c. Overseeing the management, planning, reporting and conduct of all internal audits and counter fraud work.
- d. Preparing an annual report and opinion for councillors' consideration.

13 Managers are responsible for:

- a. Ensuring that auditors (internal and external) have access to all **Council premises, property**, documents and records for the purposes of the audit and are afforded all facilities, co-operation and explanation deemed necessary.

- b. Cooperating in the production of annual audit plans by highlighting any areas of risk that may benefit from audit review.
  - c. Implementing audit recommendations within agreed timescales.
- 14 The Council may be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs, and various other Inspectors of service at any time, all councillors and officers of the Council will cooperate fully with such inspections as necessary.

## PREVENTION OF THEFT, FRAUD AND CORRUPTION (including Bribery)

- 15 The CFO is responsible for:
- a. Developing, maintaining and implementing an Anti-Fraud & Corruption Policy (and in conjunction with Human Resources a Whistleblowing Policy) that stipulates the arrangements to be followed for preventing, detecting, reporting and investigating suspected fraud and irregularity.
  - b. Advising on the controls required for fraud prevention and detection.
  - c. Appointing a Money Laundering Reporting Officer and Deputy to ensure that systems are in place to counter opportunities for money laundering and that appropriate reports are made.
  - d. Ensuring that effective preventative measures are in place to reduce the opportunity for bribery occurring in accordance with statutory requirements of the Bribery Act 2010. *(or as updated)*
- 16 The Chief Internal Auditor (CIA) has the right to:
- a. Determine the nature of any investigation work required in respect of any allegation of wrongdoing, and/or any other action required.
  - b. Require any councillor or staff of the Council to provide any information or explanation needed in the course of an investigation subject to the lawful limits set out in relevant legislation.
  - c. Refer investigations to the Police in consultation with the CFO and MO; under normal circumstances the relevant service manager would also be consulted.
  - d. Access all Council premises and property, all data, records, documents, and correspondence relating to any financial matter or any other activity of the Council.
  - e. Refer cases directly to the Police, in consultation with the CFO and MO, if it is believed an internal enquiry would compromise the integrity of the investigation and /or otherwise prejudice the interests of the Council or the general public.
- 17 Managers are responsible for:
- a. Complying with the Council's Anti-Fraud & Corruption Policy.
  - b. Ensuring that there are sound systems of internal control within their respective service areas for fraud prevention and detection.
  - c. Reporting cases of suspected theft, fraud or irregularity to the Chief Internal Auditor immediately for investigation and complying with the Council's Whistleblowing Policy.
  - d. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.
  - e. Maintaining local staff registers of interest, gifts and hospitality within their service areas.

- 18 All employees are responsible for:
- a. Complying with the Council's Anti-Fraud & Corruption Policy.
  - b. Reporting cases of suspected theft, fraud or irregularity immediately for investigation, if needs be via the Council's Whistleblowing Policy.
  - c. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.
  - d. Ensuring that they are familiar with the Employee Code of Conduct, or relevant local school's Code of Conduct, for school employees, and requirements to declare personal interests and record offers of gifts and hospitality.

## **RISK MANAGEMENT**

- 19 The CFO is responsible for preparing the Council's Risk Management Strategy and its promotion throughout the Council and for advising on the management of strategic, financial and operational risks.
- 20 Managers are responsible for:
- a. Implementing the Council's Risk Management Strategy.
  - b. Integrating risk management within business planning and performance management arrangements.
  - c. Mitigating, monitoring and reporting on risks.
  - d. Maintaining and testing business continuity plans.
  - e. Giving due regard to specialist advice in areas such as health and safety, insurance, crime and fire prevention.



### PRINCIPLES

- 1 Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. A financial system is defined as any system (computerised or not) and associated procedures used for making and recording the financial transactions of the Council. This includes:
  - **Accounting**-The main accounting system provides the prime source of financial data for management accounts, statutory accounts and government returns. It is essential that this system complies with legislation and proper accounting practice and that all information is recorded accurately, completely and in a timely manner, and that any errors are detected promptly and rectified. Financial information recorded in the main accounting system should require a minimum amount of manipulation in order to create management accounts, returns and budget reports.
  - **Income**-Effective systems are necessary to ensure that all income due is collected, receipted, recorded and banked properly. Where possible income should be collected in advance to improve cash flow and avoid costs of debt collection. All reasonable efforts will be made to collect monies owed to the Council and debts will only be written off once all reasonable actions to pursue the debt have been exhausted or where it would prove uneconomical to pursue. The CFO agreed corporate system must be used unless agreed. **All refunds should be made to the original source / bank account unless agreed by the CFO.**
  - **Expenditure on works, goods and services**-Expenditure may only be incurred where budgetary provision is available. Payment should be made through the corporate ordering and invoicing process, using a corporately approved purchasing card, by entering into a formal contract arrangement or through raising a purchase order. Exceptionally a payment requisition may be raised.
  - **Expenditure on salaries, wages, allowances and expenses**-Expenditure may be incurred where budgetary provision is available and where payment is made through the Council's combined human resource and payroll system.
  - **Banking**-All transactions through the Council's bank accounts must be properly processed, recorded and reconciled. Reconciliations must be subject to management review and sign off in a timely manner.
  - **Treasury management, financing and leasing**-Decisions relating to the management of the Council's investments, cash flows, borrowing and leasing must be in accordance with the annual Treasury Management Strategy Statement.
  - **Taxation**-Effective systems must be in place to ensure that all tax liabilities and obligations are properly reported and accounted for, and that losses, fines and penalties are avoided. Procedures must be in place to ensure that taxation issues are properly considered during the options appraisal stage of projects.
  - **Asset management**-The Council's assets must be properly recorded, safeguarded from loss/harm and utilised effectively, and any acquisitions/disposals undertaken in accordance with the Corporate Schedule of Financial Delegations, Appendix 1.
  - **Insurance**-Appropriate insurance cover is necessary to indemnify the Council against the possibility of financial costs which may arise from certain unplanned events and claims such as damage to its property, injury to employees or to the public.
  - **Recharges and internal trading accounts**-Where required for financial reporting purposes, back office costs should be allocated to services using a relevant basis of apportionment and in accordance with accounting codes of practice. Where

relevant and strictly necessary, internal charges between services should be accounted for on a timely basis using CFO agreed recharge mechanisms.

## ACCOUNTING

### 2 The CFO is responsible for:

- a. Determining the Council's main accounting (and budgeting) system for the preparation of the Council's accounts and for monitoring all income and expenditure.
- b. Determining any other financial systems which may sit outside of the main accounting system and ensuring that these are sound and properly integrated and interfaced. It is a requirement that the options appraisal for new systems should include ease of integration and interfacing with the main accounting system. Any such interface must require little or no manual intervention.
- c. Issuing guidance on the use and maintenance of the main accounting system and related financial systems and ensuring that supporting records and documents are retained.
- d. Ensuring that regular balance sheet and holding account reconciliations are undertaken.
- e. Preparing the Council's consolidated accounts, balance sheet and Annual Governance Statement (AGS) for audit and publication and issuing guidance (including a detailed timetable and plan) to ensure achievement of the statutory deadline.
- f. Ensuring all relevant staff are trained and competent in the use of the main accounting system and any subsidiary finance systems managed under the CFO's control.
- g. Ensuring there is a documented and tested disaster recovery plan as part of an agreed business resilience strategy for the Council's main accounting system and any subsidiary finance systems.

### 3 Managers are responsible for:

- a. The financial management of services, cost centres, projects or programmes for which they are responsible, further ensuring that proper accounting and financial systems exist incorporating adequate internal controls to safeguard against waste, loss or fraud.
- b. Ensuring that the main accounting system is used to accurately record financial transactions in accordance with guidance issued by the CFO.
- c. Ensuring an adequate audit trail of financial information and compliance with the Council's policies in respect of the retention of documents.
- d. Ensuring that the use of any service specific financial system (and changes to existing, including upgrades/new versions) has the express approval of the CFO, and is adequately documented, tested and interfaced with the main accounting system and all relevant staff have been properly trained in its use. It is a requirement that the option appraisal for new systems should include ease of integration and interfacing with the main accounting system, and that automatic interfaces that require no manual intervention are required.
- e. Complying with the timetables required by the CFO to enable the production of consolidated accounts, budgets and statutory information.
- f. Ensuring staff are aware of and have access to these Regulations and any supplementary advice and guidance issued by the CFO.
- g. Ensuring there is a documented and tested disaster recovery plan as part of an agreed business resilience strategy for any service specific financial system.

4 The CFO is responsible for:

- a. Providing all necessary corporate systems for the administering of invoicing, credit notes, income collection and debt recovery.
- b. Approving any local Service specific procedures, systems and documentation used where for whatever good reason corporate systems cannot be used.
- c. Ensuring that claims for Government grants and other monies are made properly and promptly.
- d. Ensuring that all monies received are properly receipted and recorded and banked promptly.
- e. Administering the process for writing off irrecoverable debts and monitoring and reporting on write off levels.
- f. Issuing advice and guidance on the detailed procedures to be followed in writing off bad debts from the accounts.
- g. Recommending and implementing the Council's debt management policy in consultation with Corporate Management Board.

5 Managers are responsible for:

- a. Using the CFO approved corporate systems for invoicing, income collection and debt recovery.
- b. Administering any local systems for invoicing, income collection and debt recovery as approved by the CFO which must properly segregate duties between staff raising accounts and those responsible for income collection. (where the CFO has agreed that compliance with 5a. is not possible or in the Council's best interest).
- c. Ensuring that fees and charges for the supply of goods and services are reviewed at least annually, consulting with the CFO and cabinet member on the financial effect of the review and obtaining Cabinet approval for any proposal to introduce new charges. (For managers in BCP maintained schools consultation/approval is instead required from the Chair of Governors)
- d. Collecting all income from within the budgets for which they are responsible.
- e. Collecting payment at point of sale wherever possible, to improve cash flow, using the system provided by the CFO.
- f. Timely initiation of 'sales invoices' in respect of all fees and charges due using the system provided by the CFO.
- g. Complying with the Corporate Schedule of Financial Delegations, Appendix 1, when writing off debts, when waiving, suspending or refunding fees, charges or contributions and maintaining appropriate records of those decisions.  
Once raised on the accounting system, no bona fide debt can be cancelled except by full payment or by being formally written off in the accounts. Cancellations/Credit notes can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt and must not be used for any other purpose.
- h. Ensuring that refunds are only made to the original source/bank account. Any refunds not to the original source/bank account must be authorised by the CFO or their appointed representative.
- i. Providing operational data and information to ensure that claims for Government grants and other monies due are made properly and promptly.
- j. Issuing official receipts for all cash and cheque income and maintaining all other documentation for income collection purposes and ensuring controlled stationery is securely stored. (except in BCP maintained schools where the Chair of Governors can agree proportionate arrangements)
- k. Keeping all income received in secure storage prior to banking and ensuring cash holdings do not exceed insurance limits.
- l. Ensuring that cash income is never used to cash personal cheques or used to make any other payments.

- m. Ensuring that where post, likely to contain money, is opened locally at least two staff are present to properly identify, record and safeguard. (It is accepted this may not always be practical, in such cases managers must agree alternative arrangements with the CFO).
- n. Ensuring all income received is paid in fully and promptly in the form in which it was received into an approved Council bank account, income kiosk or cash office, also ensuring all details are properly recorded on paying in slips which are retained for audit purposes.
- o. Reporting immediately, to the Money Laundering Reporting Officer (MLRO) (the Chief Internal Auditor), all instances of attempts by customers to pay for works, goods or services in cash:
  - that are in excess of £5,000 but lower than £10,000;
  - that are suspicious in any way such as, but not limited to, multiple use of high denomination notes, multiple and frequent disaggregation of payment of a higher value outstanding debt;

In such instances the Manager must accept the cash and not make any further enquiries into the matter themselves or share the information with anyone except the MLRO and their respective Service Director. Under no circumstance should the customer handing over the cash be told of the reporting to the MLRO nor should a formal record on any personal file of the reporting to the MLRO be made otherwise a criminal offence may be committed.
- p. Any cash payment in excess of £10,000 must be refused.

## EXPENDITURE ON WORKS, GOODS AND SERVICES

### 6 The CFO is responsible for:

- a. Ensuring that an effective overarching Procurement Strategy is in place (Purpose, Principles and Priorities).
- b. Ensuring that effective Procurement Regulations (Part G) are in place, and which are supported by detailed procurement guidance on the ordering, certification and payment for all works, goods and services. (The Procurement Code).
- c. Agreeing any exceptions to the normal procurement process outlined in the Procurement Regulations (Part G).
- d. Providing a corporate purchase to pay system for the electronic ordering, receipt and payment for works, goods and services.
- e. Processing all payments due on receipt of a valid invoice or contract certificate which satisfies VAT regulations, and confirmation that works, goods and services have been received.
- f. Agreeing any exceptions to the requirement to raise purchase orders for all works, goods and services outside of the Council's main purchasing/ordering system.
- g. Agreeing the use and administering the issuing of p-cards and processing of resulting payments.
- h. Agreeing the use of all pre-loaded payment cards.
- i. Approving any payment in advance for goods or services exceeding £30,000 (inclusive of VAT) or in excess of 6 months if the amount exceeds £1,000.
- j. Approving any payments in advance for works.

### 7 Managers incurring expenditure on works, goods and services are responsible for:

- a. Complying with the requirements of the Council's Procurement arrangements set out in Part G of these Regulations.
- b. Ensuring that all purchase orders are raised using the Council's corporate purchasing system prior to any works, goods and services being received or paid for. The Council has a "No Purchase Order, No Pay Policy" except for the following circumstances where a purchase order is not required for:
  - payments made on the basis of a formal stage payment contract
  - payments made on the basis of a formal periodic payment contract (the periodic payment may be fixed or variable in value)

- statutory or legislative charges, levies or fines (including those for taxation, pension fund)
  - purchases appropriately made through p-card (procurement /payment cards) or pre-loaded card
  - continuous charges for utilities supply
  - periodic payments such as rents or rates
  - treasury management payments
  - payments to volunteers
  - payments made from CFO approved interfaced Council database systems (such as Children's and Adult Social Care systems and Libraries)
  - exceptions agreed with the CFO (for BCP maintained schools the Chair of Governors may agree other circumstances where purchase orders are not required)
- c. Ensuring that no purchase orders are placed without the proper approvals and financial authorities set out in the Corporate Schedule of Financial Delegations (Appendix1).
- d. Receipting all works, goods and services on the corporate purchasing system.
- e. Ensuring the proper completion and authorisation of payment certification vouchers, including confirming that the invoice has not previously been paid.

1 BCP maintained schools may use alternative purchase order systems

2 In exceptional circumstances, to be agreed by the CFO, verbal, email or in person orders may need to be raised retrospectively in the Council's corporate purchasing system using the 'Confirmation order' facility

- f. Ensuring that payments are made only where works, goods and services have been received to the correct price, quantity and quality standards.
- g. Gaining CFO approval for any payments in advance for goods or services exceeding £30,000 (inclusive of VAT) or in excess of 6 months if the amount exceeds £1,000.
- h. Gaining CFO approval for any payments in advance for works.
- i. Gaining CFO approval for the use of p-cards and pre-loaded cards.
- j. Ensuring that all p-cards and pre-loaded cards are appropriately controlled, that transactions are reviewed and authorised by the relevant line manager, are for proper business purposes and are supported by receipts which must be stored electronically on the 'receipt imaging' function.
- k. Reporting any lost or stolen p-cards or pre-loaded cards immediately to the Chief Internal Auditor.

## **EXPENDITURE ON SALARIES, WAGES, ALLOWANCES & EXPENSES (including making 'on-payroll' payments for non-salaries as directed in law by HMRC)**

- 8 Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised. The Head of Paid Services/Chief Executive Officer is responsible for overall staff management arrangements including ensuring that proper systems of evaluation are used in determining remuneration.
- 9 The CFO is responsible for ensuring that the Head of Human Resources (HHR) operates sound arrangements for the payment of salaries, pensions and expenses to officers and councillors.
- 10 The HHR is responsible for:
- a. Providing a corporate payroll system for recording all payroll data and generating payments to employees and councillors, including payment of pensions and expenses.
  - b. Ensuring the corporate payroll system properly and efficiently interfaces with the main accounting system and that any chart of accounts held within the payroll system is kept up to date.

- c. The proper calculation of all pay and allowances, National Insurance and pension contributions, income tax and other deductions.
- d. Completing all HM Revenues & Customs (HMRC) returns regarding PAYE and providing advice and guidance on employment related taxation.
- e. Maintaining an accurate and up to date record of the Council's establishment.
- f. Agreeing with BCP maintained schools the use of any local payroll arrangements having been adequately assured that the alternative system is well controlled, managed and resulting in the correct payments being made to the correct staff.
- g. Agreeing with managers all circumstances where a wage or salary is to be paid outside of the main HR/payroll system.
- h. Agreeing all 'on payroll' arrangements, required by HMRC, for payments to individuals not directly employed by the Council (e.g. IR35 tax).
- i. Agreeing the use of the corporate payroll system for recording payroll data and generating payments to employees of third-party organisations (and where a fee or charge is applied agreeing this with CFO).

11 Managers incurring expenditure on salaries, wages, allowances and expenses are responsible for:

- a. Controlling resources and containing staff numbers within approved establishment and budget levels.
- b. Ensuring that all employee appointments, including temporary staff, are made in compliance with the Council's policies.
- c. Ensuring that the HR/Payroll system is updated promptly of starters and leavers, and all information relating to employees pay and expenses.
- d. Ensuring that all payments made to employees are properly authorised in compliance with the requirements and financial limits set out in the Council's human resources policies.
- e. Ensuring that any overpayment (error) is recovered. Managers do not have delegated authority to write-off any overpayment.
- f. Ensuring that all expenses claims are reviewed and authorised by the relevant line manager prior to payment. Staff subsistence should never be paid or reimbursed using p-cards or pre-loaded cards, the Council's HR/payroll system must be used to reimburse staff expenses in all such cases.
- g. Ensuring that all persons employed by the Council are paid through the Council's corporate payroll system.
- h. Ensuring that any proposal to engage a person via a contract of service\* (rather than a contract of employment) is assessed by the HHR for compliance with relevant legislation to determine if payments need to be 'on payroll' or 'off payroll' via invoice. This includes engagements via Employment Agencies and Single Person Companies or Partnerships.  
\*Where a Contract of Service is proposed see Appendix 1 section EX9 for required approval route
- i. Managers in BCP maintained schools must have the approval of the HHR if they wish to use their own alternative payroll arrangements.

## **BANKING (including 'Client Cash Floats' and local Bank Accounts)**

12 It is the responsibility of Cabinet to approve the banking arrangements of the Council.

13 The CFO is responsible for:

- a. Managing the Cabinet approved banking contract on a day-to-day basis.
- b. Managing and operating all the Council's bank accounts and ensuring that all payment methods, whether physical or electronic, have the appropriate authorisations, approvals and signatures.
- c. Ensuring that adequate controls are in place for the control of payment methods (including cheques) covering access, ordering, custody, preparation, signing and despatch as appropriate.

- d. Ensuring regular reconciliations are carried out between all bank accounts and the financial records of the Council.
- e. Approving the operation of any 'client cash floats' for disbursement of cash to clients.
- f. The Council will not operate petty cash accounts and therefore no cash payments will be made to purchase works, goods or services.
- g. Approving the operation of any local bank accounts in Services.

14 Managers are responsible for:

- a. Ensuring that no bank accounts are opened in the name of the Council other than with the express written authority of the CFO.
- b. Reporting to the CFO on the nature and state of any bank accounts for which they are responsible. Reconciliations must be subject to management review and sign off in a timely manner.
- c. The proper administration of any 'client cash floats' or local bank accounts including record keeping, document retention, paying in income, reconciliation and control of cheques including ordering, custody and security, preparation, signing and despatch.
- d. Using 'client cash floats' for client cash disbursements only and ensuring such floats are not used to purchase works, goods or services or to reimburse staff expenses.

## TREASURY MANAGEMENT, FINANCING AND LEASING

15 The CFO is responsible for:

- a. Preparing and presenting an annual Treasury Management Strategy to Audit & Governance Committee and/or Cabinet prior to submission to Council for approval.
- b. Implementing, reviewing and reporting on the progress and performance of the strategy and recommending any changes to Audit & Governance Committee on a quarterly basis.
- c. Effecting all investments and arranging borrowings within the limits imposed by the Council and reporting on the funding methods used.
- d. Advising on any proposal for leases, borrowings, credit arrangements, and hire purchase arrangements to Council for approval.
- e. Advising on any proposals to set up or acquire interest in a company, joint company, joint venture or partnership to Council for approval.
- f. Ensuring that the use of any financial derivatives is intra vires and properly risk assessed and monitored.
- g. Ensuring compliance with all applicable laws, regulations and codes of practice relating to treasury management and capital finance including the registration of all Council owned stocks, bonds, mortgages and loans.
- h. Ensuring that cash flow forecasting and monitoring systems are in place.

16 Managers are responsible for:

- a. Assisting cash flow through timely billing of income due, due consideration of contracts payment terms and minimising advance payments wherever possible.
- b. Supporting cash flow forecasting and notifying the treasury team in advance of any high value receipts or payments that may impact on investments and borrowings.
- c. Ensuring no loans or guarantees are given to third parties and that interest in companies, joint ventures or other enterprises are not acquired without the approval of Council and following advice from the CFO.

- d. Ensuring that no leases, borrowings, credit arrangements or hire purchase arrangements are entered into without the approval of Council and following advice from the CFO.
- e. Arranging for all trust funds to be held in the name of the Council wherever possible and ensuring that trust funds operate within the law and the specific requirements for each trust. All officers acting as trustees by virtue of their position with the Council shall deposit securities relating to the trust to the custody of the CFO unless the deeds specifically require otherwise.
- f. Arranging the secure administration of funds held on behalf of third parties and ensuring that the systems and controls for administering such funds are approved by the CFO and subject to regular audit.

## TAXATION

17 The CFO is responsible for:

- a. Ensuring that transactions comply with relevant statutory requirements and authorities.
- b. Approving the systems for all PAYE returns to HM Revenues & Customs (HMRC).
- c. Completing a monthly return of VAT inputs and outputs to HMRC, ensuring prompt recovery of sums due, and reconciliation of tax records to the main accounting system.
- d. Making monthly Construction Industry Scheme returns to HMRC.
- e. Managing the Council's partial exemption position.
- f. Preparing and submitting Voluntary Disclosure Notices to HMRC and recovery of any revenues due.
- g. Providing advice and guidance on taxation issues.

18 Managers are responsible for:

- a. Ensuring that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- b. Seeking advice on the potential tax implication of any new initiatives for the delivery of Council activity and services.
- c. Ensuring that the taxation implications of proposed land and building acquisitions and sales and proposed capital schemes are properly identified and considered at the planning stage.
- d. Ensuring that contractors fulfil the necessary construction industry tax deduction scheme requirements where construction and maintenance works are undertaken.
- e. Ensuring that advice and guidance on taxation issued by the CFO is followed and adhered to by staff in their service, project or programme.
- f. Ensuring that all persons employed by the Council are added to the Council's payroll and tax deductions forms part of payments made to them. (with approved exceptions agreed by the CFO and HHR where individuals concerned are bona fide self-employed or are employed by a recognised agency)

## ASSET MANAGEMENT

19 The CFO is responsible for:

- a. Ensuring that asset registers are maintained in the appropriate format for accounting purposes for all fixed assets valued in excess of the limit set out in the Schedule of Financial Delegations to Officers, and that valuations are made in accordance with the local authority accounting code of practice.
- b. Establishing an asset management plan that details short, medium and long term use of assets, and establishes arrangements for monitoring and reporting asset performance.



- c. Ensuring that all asset acquisitions and disposals are properly recorded within asset records by the CPO.
- d. Arranging for all assets to be adequately insured.
- e. Prescribing the records to be maintained for any stocks and stores and for inventories of moveable assets.
- f. Approving the write off of deficiencies in any stocks, stores and inventory items subject to the limits set out in the Schedule of Financial Delegation to Officers.

20 The Corporate Property Officer (CPO) is responsible for:

- a. Maintaining up to date records of all land and buildings, including values and plans, for inclusion in the corporate fixed asset register, and of the Council's housing stock in the format prescribed by the CFO and at least on an annual basis.
- b. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the CFO.
- c. Ensuring that all land and buildings are maintained so as to best protect and safeguard the Council's interests.
- d. Arranging the disposal of surplus assets in compliance with any approved asset management strategy/plan(s) that apply and subject to the necessary approvals.
- e. The acquisition of land and buildings on behalf of the Council in accordance with any asset management strategy/plan(s) that apply, Capital Programme and medium term financial plan, and subject to the necessary approvals.
- f. Notifying the CFO of acquisitions and disposals so that the accounting records can be updated.
- g. Ensuring all rents, charges or fees due in respect of investment land and buildings are raised and all income is collected and accounted for in the Council's accounting systems.
- h. Ensuring all lessees and other prospective occupiers of Council land or buildings are not allowed to occupy the property until a lease or agreement in a form approved by the Monitoring Officer has been completed.
- i. Ensuring all title deeds are passed to Legal Services who act as custodian for all title deeds for Council properties and land.

21 The Head of ICT & Customer Support is responsible for:

- a. Maintaining up to date records of all ICT equipment, including values, for inclusion in the corporate fixed asset register in the format prescribed by the CFO.
- b. Purchasing, maintenance and disposal of all ICT equipment.

22 Managers are responsible for:

- a. Providing the Corporate Property Officer (CPO) with all relevant information and documentation for the purposes of maintaining an up to date and complete fixed asset register.
- b. Ensuring the proper security and safe custody of assets under their day-to-day operational control and reporting any assets that are lost, stolen or destroyed to the insurance team, facilities management and internal audit as appropriate.
- c. Complying with guidance issued by the CFO on the disposal of assets including selling, gifting, swapping or donating the asset subject to the limits set out in the Schedule of Financial Delegations to Officers.
- d. Ensuring all rents, charges or fees due in respect of operational land and buildings, under their day-to-day service control, are raised and all income is collected and accounted for in the Council's accounting systems.
- e. Complying with guidance issued by the Head of ICT & Customer Support including the purchase, maintenance and security, maintenance of ICT asset registers and disposal of ICT equipment.

- f. Maintaining local inventories of moveable assets (non-ICT) for all items with a purchase price exceeding £1,000 (and for determining a lower £ value if deemed appropriate, such as for desirable items e.g. digital cameras).
- g. Ensuring that stocks, stores and inventory items are held securely and kept to a minimum, proportionate to the needs of the service.
- h. Ensuring that any cash holdings are kept to a minimum, within insurance limits and held securely.
- i. Seeking approval to write off deficiencies in any stocks, stores, or inventory items, subject to the limits set out in the Corporate Schedule of Financial Delegations (Appendix 1).
- j. Ensuring that assets are used only in the course of the Council's business unless specific permission has been given otherwise by a designated officer as shown in the Corporate Schedule of Financial Delegations (AM10).

## **INSURANCE**

- 23 The CFO is responsible for:
- a. Determining the nature and level of insurance cover to be effected.
  - b. Effecting insurance cover and processing and settlement of all claims.
- 24 Managers are responsible for notifying the CFO promptly of:
- a. All new risks, properties or vehicles which require to be insured.
  - b. Any alterations affecting insurance arrangements.
  - c. Any loss, damage or claim.
- 25 Managers must not effect any local insurance arrangements without the approval of the CFO.

## **RECHARGES AND INTERNAL TRADING ACCOUNTS**

- 26 The CFO is responsible for:
- a. Maintaining an appropriate system of internal recharges which ensures that the full cost of each service is identified in accordance with reporting requirements.
  - b. Where relevant and strictly necessary all internal charges and recharges should be processed in a regular and timely basis using relevant bases of apportionment, allocation or recharging mechanisms.
  - c. Advising on the operation of internal trading accounts.
- 27 Managers are responsible for:
- a. Agreeing the basis of internal charges/recharges in advance of the financial year as part of the budget setting process.
  - b. Maintaining appropriate systems to calculate recharges or justify their apportionment.
  - c. Providing data to enable recharges to be processed on a regular and timely basis and responding in the event of any disputed charges.
  - d. Complying with guidance issued by the CFO in relation to the operation of trading accounts.

## PART G PROCUREMENT & CONTRACT PROCEDURES

BCP maintained schools should augment this section of Financial Regulations with Buying Procedures and Procurement Law for Schools guidance issued by the DfE. <https://www.gov.uk/guidance/buying-procedures-and-procurement-law-for-schools>. If specific DfE guidance content differs to Part G, BCP Council requirements, then DfE guidance content applies. **BCP Council's internal governance arrangements and requirements in these Regulations for Procurement Decisions Records do not apply to BCP maintained schools**

### PRINCIPLES

1. Goods, services, works and concessions must be procured in a way that is lawful, ensures transparency, integrity and accountability, covering all funding sources (Revenue, Capital, Grant or Partner Funding, HRA), represents value for money (VFM), maximises public benefit and serves to deter fraud and corruption.
2. All procurement and contractual commitments made by the Council must:
  - a. Follow locally agreed 'expenditure control' instructions.
  - b. Ensure when calculating the estimated value of a contract it must be inclusive of VAT.
  - c. Involve the **Procurement and Contract Management (PCM) team** in all procurement **activity** where the whole life contract value is over £30,000 (VAT inclusive).
  - d. Ensure standard tender processes or documentation cannot be changed without the approval of the Head of Strategic Procurement.
  - e. Comply with all relevant statutory provisions including the Public Contracts Regulations 2015 (PCR15), Concession Contracts Regulations 2016 (CCR16) **and Procurement Regulations 2024 (PR24)** (or as amended).
  - f. Ensure goods, services, works and concessions are procured by the most efficient, transparent processes, by sustainable and ethical means, ensuring accountability, achieving value for money and deriving maximum benefit to support BCP Council's corporate strategies and plans.
  - g. Cover the whole life value, from the initial definition of the business need through to the end of the useful life of the asset or service contract including any licensing upgrades, maintenance, parts, recycling, staffing costs and disposals.
  - h. Offer best value and protect the Council from any loss arising from the failure of a contractor to perform the contract.
  - i. Ensure that the Council pays a fair and proper price (or receives a fair and proper price in the case of concessions).
  - j. **Follow procurement advice published on the Council's "How Do I" intranet pages.**
  - k. **Plan activities sufficiently early to enable** orderly transitions to new contract arrangements, whether extending, re-tendering.

### STANDARDS

3. The following standards must be adopted:
  - a. The highest standards of probity and ethical governance are always maintained and adhered to.
  - b. All Officers and Councillors must declare any personal interest or conflict of interest during the whole life in any procurement or contract, failure to do so could be deemed to be either corrupt practice or maladministration or could not withstand public scrutiny.
  - c. All suppliers are treated equally, and procurement takes place in an open and transparent manner which does not favour unfairly one supplier over another.

- d. Legal, Finance, IT, Human Resources, Property, **Climate** Team, Insurance and other professional advice appropriate to the individual procurement exercise will be obtained.
- e. **Managers will work with Finance and Procurement to understand their spend and, where relevant, work to migrate spend from spot-purchasing (normally reserved for urgent needs, one-time purchases, or when the market conditions dictate) to buying against a compliantly procured contract with suppliers on pre-negotiated terms and conditions.**
- f. **Ensure that contract opportunities are as accessible as possible to all entity types, including Small Medium Enterprise (SME) / Voluntary Community & Social Enterprise (VCSE) suppliers.**
- g. **Estimation of contract value of goods, services and works, for the purposes of determining the applicable threshold, is an aggregation of the whole life value from award and includes implementation prior to live service and extends to contract termination, not just annual, including any optional extensions and including VAT (where applicable). Consideration should also be given to costs related to, but not limited to, delivery, licensing, implementation, upgrades, maintenance, parts, recycling, staffing costs, decommissioning and disposals.**
- h. **The estimated value of a concession is calculated based on the total turnover of the concessionaire generated over the duration of the contract, net of VAT, as estimated by the contracting authority, in consideration for the works and services that are the object of the concession as well as for the supplies required for such works and services. Turnover is defined as equivalent to revenue or sales (net of discounts and sales taxes) i.e. total money in (not net of expenditure).**
- i. No goods will be delivered, nor services or works begun without a proper contractual commitment and/or purchase order being in place.
- j. All contracts must have a clearly defined duration, including extensions where required, provision(s) for modifications and termination and must not have a provision to automatically renew.
- k. Industry and/or Council standard contracts/terms/conditions must be used wherever possible as approved by Legal Services.
- l. Where bespoke advice or drafting of contracts is required, the MO must approve the document prior to tendering or obtaining quotes and in any event before any contract is executed and any terms and conditions must not be held against the best interests of the Council.
- m. The general principle is that unlimited liability is not permitted because it is disproportionate, can have the effect of deterring bidders, raising prices due to the inclusion of large risk premiums and it runs contrary to government policy on growth and supporting business.
- n. All tender processes over £30,000 will be undertaken using the Council's **procurement system unless otherwise** agreed by the Head of Procurement (e.g., for a collaborative procurement where BCP Council is not the lead, or a Framework requires otherwise).
- o. When appointing interim staff or consultancy services (contract of employment or contract for service) refer also to the Corporate Schedule of Financial Delegations in Appendix 1 (EX9, 10 & 11).
- p. The Procurement & Contracts Board has oversight over all planned spend decisions across the entire Council and has the authority to require any Manager to attend a meeting and provide information and/or explanation as required by the Board.

- q. Managers delegating responsibility for leading a procurement will ensure that allocated staff receive adequate support to achieve time and quality requirements.

## BREACHES

- 4. Breaches of Financial Regulations (Part G) are extremely serious matters and will be fully investigated and reported on following referral or discovery. Any breach of these Regulations could lead to disciplinary action being taken against the individual(s) concerned.
  - a. Where it is evident that any part of Part G has not been followed then a breach has occurred.
  - b. Service Directors and managers are responsible for reporting all known or discovered breaches of these Regulations to the CFO as soon as they become aware of such instances.
  - c. Service Directors may be required to supplement the CFO's annual report on breaches to the Audit & Governance Committee with a more detailed report explaining the circumstances of the breach and the remedial action taken or planned by way of remedy.

## PROCUREMENT DECISION RECORDS (PDRs) – GENERAL REQUIREMENTS

- 5. Managers will engage with PCM as required and input into the completion and approval of Procurement Decision Records (PDRs). Managers should note:
  - a. PDRs will be used to record the following reportable circumstances:
    - i. Standard competition requirements not followed as they would likely cause harm to health or property.
    - ii. A particular supplier is required because competition is absent for technical reasons
    - iii. Payments in advance for goods, services or works
    - iv. Spot-purchase (i.e. off-contract) when buying against a compliantly procured contract was an option.
  - b. PDRs will not be granted retrospectively unless under emergency requirements (Section 7) and any such requests will be treated seriously and constitute a breach.
  - c. PDRs will not be considered approved until approved by all relevant signatories which include Lead Client Officer, Lead Procurement Officer, Accountant, Director, Head of Procurement, Chief Financial Officer. PDRs for IT subject matter will also need to be approved by IT.
  - d. The CFO will produce an annual report on relevant PDRs and submit this report to the Audit & Governance Committee for scrutiny and potential follow up action.

## PIPELINE

- 6. PCM will prepare and maintain the Council's organisational pipeline of recurrent contracts and planned new contracts.
  - a. The pipeline must look ahead a minimum of 18 months to support procurement resourcing and bidder planning as well as service preparation and planning. Estimated contract values must be shared with PCM.

- b. Managers must engage with PCM on a regular basis to share information and data on their forward plan of procurements, including extensions, for the forward-looking period specified by PCM.
- c. PCM will publish the Council's pipeline in the public domain in the required Pipeline Notice format. This includes the Council's forward plan of procurements with estimated values above £2M, including extensions. The forward plan must extend for a minimum of 18 months.

## EMERGENCIES

7. Emergencies (serious risk to life or serious and immediate risk of loss or damage), only applies to extreme major incidents or unforeseen events such as a natural disaster and does not allow for accelerated procurement due to urgency, in which case the PDR process applies.
  - a. In the case of an extreme emergency where there is immediate danger to the safety of persons or serious risk of immediate loss or damage to the Council's assets or interests, or the interests of another party, the Chief Executive, Corporate Director, CFO, MO or Service Director, may place such emergency contracts/orders as necessary by means that are reasonable under the circumstances.
  - b. The Chief Executive, Corporate Director, CFO, MO or Service Director may delegate another officer of the Council to place such emergency contracts/orders but remains accountable for any resulting expenditure or activity.
  - c. The CFO and appropriate Cabinet Member must be advised of any emergency contract/order within five working days.
  - d. In such an event, the Head of Procurement shall be advised of the use of the procedure and an emergency PDR be sent as soon as reasonably practicable for all procurements of any value.

## USE OF CORPORATE CONTRACTS AND FRAMEWORKS

8. At all levels of spend, where an appropriate organisation-wide contract exists, including compliantly-procured framework agreements, it must be used.
  - a. If a corporate contract is deemed unsuitable by PCM, then a written justification must be recorded in the PDR, describing the reason why such a corporate contract cannot deliver the Council's requirements/specifications and alternative VFM must be demonstrated.
  - b. Where a corporate contract does not exist, the service(s) will consult PCM who will:
    - i. select the most appropriate procurement route to market and tender processes.
    - ii. identify if similar contracts are being let, or due to be let, with a view to aggregating requirements and/or modifying existing contracts.
  - c. Although such contracts may be available to them, this is not a requirement for BCP maintained schools.

## PRELIMINARY MARKET ENGAGEMENT (PME)

9. Proportionate PME should be undertaken to inform the development, deliverability and affordability of requirements including the feasibility of alternative options that could

help better deliver services. For contracts over £30,000 PCM must be consulted and involved before undertaking any PME.

- a. PME must be conducted in a fair and transparent manner and must not be treated as a call for competition and a contract must not be awarded.
- b. PME can be conducted with a view to informing suppliers of procurement plans, requirements and informing the Council's Pipeline.
- c. Steps must be taken to ensure that participating suppliers are not unfairly advantaged.
- d. At the commencement of each specific planned procurement, Conflict of Interest declarations / assessments must be completed by all individuals that could influence a decision made by or on behalf of BCP Council.

## LEGAL OBLIGATIONS AND COUNCIL POLICY OBJECTIVES

10. Legal obligations and Council policy objectives must be considered in all procurement processes and where relevant and proportionate, incorporated into the specification, evaluation process and the terms and conditions of the contract.
  - a. Legal obligations and Council policy objectives that must be met as a minimum are:
    - i. Risk Assessment and Business Continuity Impact Assessment
    - ii. Sustainability Decision Impact Assessment
    - iii. Social Value Considerations (The Public Services (Social Value) Act 2012)
    - iv. Equality Impact Assessment
    - v. UK General Data Protection Regulation (UK GDPR)
    - vi. Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

## PROCUREMENT TIMELINE

11. PCM will determine minimum & maximum procurement timeline(s) depending on the proportionality and complexity of the requirements against procurement legislation, which must be set out in the tender documents.

## CONTRACT LENGTH

12. PCM and the manager will decide the length of a contract, consideration should be given to the complexity of the requirement, as well as the resources and investment required. The timeframe should be realistic and sufficient for both sides to perform their contractual obligations.

## FRAMEWORKS

13. The access to and use of any 3<sup>rd</sup> party framework or dynamic market is subject to PCM due diligence and must be approved by the Head of Procurement before use.

## PROCURING WHEN FUNDED BY EXTERNAL GRANTS

14. Managers must, in advance of undertaking any procurement activity, ensure PCM has full access to any relevant paperwork and guidance to ensure the Council is fully conversant and compliant with all the requirements of the relevant funding bodies.



## LIGHT TOUCH REGIME

15. Only Light Touch service contracts defined under **Schedule 3 of PCR15 or Schedule 1 of PR24** can use this process. All procurement processes covered by the Light Touch Regime must be agreed with and run by **PCM**.

## PROVIDER SELECTION REGIME (PSR)

16. All procurement processes of any value covered by The Health Care Services (Provider Selection Regime) Regulations 2023 must be agreed with and run by **PCM**.

## CONCESSIONS

17. Where a manager is considering entering into a Concession Contract of any value, the process must be agreed with and run by **PCM**.

## SPECIFICATIONS

18. **Within technical specifications the words “or equivalent” must immediately follow every reference to a specific make or source of a product.**
  - a. Under £30,000 - The manager is responsible for ensuring a specification is created that describes the Council’s requirements in sufficient detail including the considerations required in Legal obligations and Council policy objectives, to enable the submission of equal and transparent competitive bids.
  - b. Over £30,000 - The manager must consult the **PCM** to ensure a specification is created that describes the Council’s requirements in sufficient detail including the considerations required in Legal obligations and Council policy objectives, to enable the submission of equal and transparent competitive bids.
  - c. **Specifications for contracts with estimated values above £5M must include at least three key performance indicators. This does not apply to frameworks, concessions or light touch contracts.**

## PAYMENT IN ADVANCE

19. The Manager is responsible for ensuring approval for a payment in advance is made in accordance with Part F (7) (g) & (h). Examples that may apply include, but are not limited to, lease arrangements, ICT software licensing and support agreements, subscriptions, maintenance agreements, works, goods or services received from utility companies **and market research**.
  - a. Requirements of such must be included in the relevant specifications and T&Cs and the payment in advance is limited to the actual requirement of the T&Cs and no more.
  - b. **Where CFO approval is required in accordance with Part F (7) (g) & (h), such approval will be sought in the format of a PDR.**



## PERFORMANCE BONDS AND PARENT COMPANY GUARANTEES

20. The manager is responsible for ensuring:

- a. In a contract for the execution of works the requirements for any performance bond or guarantee are as follows:

i. £0 to £500,000	Consider the requirement, or not, for and value of performance bond or <b>parent company</b> guarantee further to their risk assessment.
ii. £500,000 up to <b>PA23</b> works threshold	Consult the CFO and MO to consider the requirement, or not, for and value of performance bond or <b>parent company</b> guarantee further to their joint risk assessment.
iii. Over <b>PA23</b> works threshold	Bond or <b>parent company</b> guarantee is normally required, the terms to be approved by the MO. The CFO must agree the value or percentage value of the contract of such a bond or guarantee.

- b. The risk assessment considers other ongoing contracts with the same contractor and the aggregate contract values in determining the need for a performance bond or guarantee.
- c. Such bonds or guarantees be taken up by the contractor with an insurance company, bank or other financial institution or body approved by the CFO. (Except for 'schedule of rates' contracts or any other contract exception agreed by the MO and CFO).
- d. Where the works contract has been let via an available Framework Agreement, then any retention or performance bond requirements of that framework agreement must prevail.

## EVALUATION CRITERIA AND SCORING MATRIX

21. **PCM will ensure** that a scoring matrix is prepared for all tenders **above** £30,000 against **assessment** criteria derived from the requirements in the specification and price elements. The evaluation criteria, weightings and price elements must be issued with the tender and **be** clear and transparent to bidders.

- a. Invitations to tender will include relevant and proportionate evaluation criteria, derived from the elements defined under Legal obligations and Council policy objectives that might improve and secure improvement in respect of the economic, social and environmental well-being of the relevant area.
- b. Where relevant and **proportionate**, tenders are to be assessed with a minimum of 10% of the quality score being allocated to economic, social and environmental (**i.e. social value**) considerations.

## COMPETITION REQUIREMENTS

22. Competition Requirements

- a. Local Suppliers must be used wherever possible under £30,000. A local supplier is defined, for this purpose, as operating within the BH, DT and SO postcode regions.

- b. All requirements of any value relating to the Provider Selection Regime (PSR) and Concessions must go through **PCM**.

c. **Competition Requirements: £0 - £5,000**

<b>Procurement Decision Record</b> – Not required (unless circumstances at 5a apply)
<b>Responsibility:</b> Manager
<ul style="list-style-type: none"> <li>i. Obtain at least <b>one written, value for money quote</b>.</li> <li>ii. Ensure verbal quotes are retrospectively followed up by a written quote (by email if preferred) before placing the order.</li> <li>iii. The quote should, where possible, be from a local supplier prior to placing order.</li> </ul>

d. **Competition Requirements: £5,000 - £30,000**

<b>Procurement Decision Record</b> is required
<b>Responsibility:</b> Manager and <b>PCM</b>
<ul style="list-style-type: none"> <li>i. <b>Consult PCM beforehand to develop a solution if a manager considers it appropriate to advertise under £30,000.</b></li> <li>ii. Invite sufficient suppliers by e-mail to ensure <b>a minimum of three comparative written quotations</b> are received back (to be declared in the PDR if less than three). <b>Invitations must adhere to the principles of transparency and equal treatment.</b></li> <li>iii. For BCP maintained schools the Department for Education statutory guidance in respect of schemes for financing schools (normally updated annually) requires three quotes to be obtained for all spend to exceed £10,000 in any one year.</li> <li>iv. Ensure at least one of these quotes, where possible, is from a local supplier.</li> <li>v. Provide the same specification, evaluation criteria (where not price only) and the Council's standard terms and conditions to suppliers.</li> <li>vi. Set a quotation return date and time and evaluate accordingly.</li> <li>vii. If the estimated value was under £30,000 and all of the subsequent quotes received were above £30,000, then <b>consult PCM</b>.</li> <li>viii. Ensure a PDR has been approved prior to awarding contract / issuing a PO.</li> </ul>

e. **Competition Requirements: Regulated Below Threshold (i.e. £30,000 to Threshold)** including PSR or Concessions.

<b>Procurement Decision Record</b> is required
<b>Responsibility:</b> <b>Manager and PCM</b>
<ul style="list-style-type: none"> <li>i. <b>The manager must involve PCM from the outset of the procurement process.</b></li> <li>ii. <b>PCM will trigger conflict assessments which will be kept under review, revised and mitigated as necessary.</b></li> </ul>

- iii. **PCM will determine** the most appropriate route to market **and invite bid(s) in compliance with PR24:**
  - a. PCM are not required to openly advertise any below threshold opportunity.
  - b. PCM may at its discretion elect to openly advertise any below threshold opportunity.
  - c. Where an opportunity is advertised generally in the public domain, including where targeted at any specific class of supplier, it shall initially be advertised on the relevant national opportunity platform.
  - d. An opportunity shall not be considered advertised where it is made available to a number of particular suppliers who have been selected for that purpose regardless of how PCM draws the opportunity to the attention of those suppliers.
  - e. Where an opportunity is made available to a number of particular suppliers for **Goods or Services**, PCM will:
    - i. Invite a minimum of 5 quotes (where possible) up to £100,000. In exceptional circumstances PCM are permitted to reduce this requirement.
    - ii. Advertise in the public domain above £100,000.
  - f. Where an opportunity is made available to a number of particular suppliers for **Works**, PCM will:
    - i. Invite a minimum of 5 quotes (where possible) up to £1,000,000. In exceptional circumstances PCM are permitted to reduce this requirement.
    - ii. Advertise in the public domain above £1,000,000.
  - g. Where an opportunity is made available to a number of particular suppliers for **Light Touch Regime** services, PCM will:
    - i. Invite a minimum of 5 quotes (where possible) up to £200,000 unless grounds for direct award are approved by PCM. In exceptional circumstances PCM are permitted to reduce this requirement.
    - ii. Advertise in the public domain above £200,000 unless grounds for direct award are approved by PCM.
  - h. Where an opportunity is made available to a number of particular suppliers for **Concessions**, PCM will:
    - i. Invite a minimum of 5 quotes (where possible) up to £100,000.
    - ii. Advertise in the public domain above £100,000.
- iv. **PCM will identify** if similar contracts are being let, or due to be let, with a view to aggregating requirements, creating corporate contracts and/or modifying existing contracts.
- v. **PCM will ensure**, where relevant, the appropriate **notice(s)** are published on Find a Tender Service via the Council's procurement system.
- vi. **PCM will ensure** that clarification questions (direct or public), received during the tender period are answered within the set tender period and appropriate responses provided by the Service are **published** via the **procurement system**.

**f.Competition Requirements: Above Threshold** including PSR or Concessions.

**Procurement Decision Record** is required

**Responsibility:** **Manager and PCM**

- i. The manager must involve PCM from the outset of the procurement process.
- ii. PCM will trigger conflicts assessments which will be kept under review, revised and mitigated as necessary.
- iii. **PCM will select** the most appropriate route to market and tender process.

- iv. **PCM** will identify if similar contracts are being let, or due to be let, with a view to aggregating requirements, creating corporate contracts and/or modifying existing contracts.
- v. **PCM** will ensure, where relevant, the appropriate **notice(s)** are published on **Find a Tender Service** via the Council's **procurement system**.
- vi. **PCM will ensure** that clarification questions (direct or public), received during the tender period are answered within the set tender period and appropriate responses provided by the Service are **published** via the **procurement system**.

## EVALUATIONS

23. The evaluation criteria, weightings and price elements for procurements must be scored against the score guide **described within** the tender documents, where applied.
- a. **PCM will ensure:**
- i. Compliance and due diligence checks are undertaken before evaluation begins.
  - ii. Evaluators are provided with the compliant tender(s) and scorecards with instructions for individual evaluation purposes.
  - iii. A date and time are agreed with the evaluators for the return of all **completed** evaluation **scorecards**. **Evaluators will record concise whole sentence responses/comments against all criteria to support audit and transparency.**
  - iv. Appropriate moderation **will be led by PCM with all evaluators present.**
  - v. Evaluation of price and quality is completed in accordance with the tender documents and that evaluator scores are based on the question asked against the requirement (specification) and not a predefined opinion or experience.

## ABNORMALLY LOW BIDS

24. Abnormally Low Bids will be reviewed by **PCM** in accordance with **PCM's standard operating procedures**.

## FINANCIAL APPRAISALS

25. The Council has a responsibility to assure ourselves of the solvency and competency of suppliers that bid for our contracts. The key principle is to safeguard the delivery of public services, while being proportionate, fair and not overly risk averse.
- a. **PCM** and Accountancy are responsible for ensuring:
- i. A financial appraisal risk assessment is completed on procurements valued over £30,000 to determine the level of financial checking required on a supplier as part of the procurement process.
  - ii. The appropriate financial appraisal as determined by the financial appraisal risk assessment is completed on the preferred supplier prior to notification of the procurement outcome to bidders.
  - iii. The method for each level of financial appraisal has been determined and agreed by the CFO.

- iv. any risks identified through the financial appraisal of a preferred supplier are notified to the Head of Procurement prior to the notification of the outcome to bidders. The Head of Procurement will be responsible for the making the decision as to whether to continue with contract award.

## AWARD NOTIFICATION

### 26. Award Notification

- a. Below the £30,000 threshold the Manager will notify bidders of successful and unsuccessful bid status, and award of contract / issuing of a PO. Such communication / notification must be after the PDR has been approved.
- b. Above the £30,000 threshold PCM will notify bidders and the wider market of the award of contract and issue successful and unsuccessful letter(s)
- c. PCM will notify bidders and the wider market of award of contract and issue successful and unsuccessful letter(s) for PSR and/or concession contracts at any value.
- d. With the exception PCM and/or Legal Services, Managers will not communicate with suppliers during any standstill period.

## CONTRACT REGISTER RECORDS BETWEEN £5,000 and £30,000

### 27. Contract Register records between £5,000 and £30,000

- a. Managers must ensure that PCM are informed in a timely manner to enable records of contracts valued between £5,000 and £30,000 to be published in the public domain at the start of the contract.
- b. PCM will ensure a record of the contract is published in the public domain on the Council's Contracts Register.

## CONTRACT COMPLETION

- 28. PCM will collate the documents that form the contract (derived from the original tender process).
- 29. Above threshold contracts must be drawn up and completed in a timely manner to enable the publication of the Contract Details Notice.

## CONTRACT IMPLEMENTATION

- 30. Immediately following contract award and prior to the contract start date, contract implementation is a key phase in setting up a new procurement project for success:
  - a. PCM and the manager are responsible for engaging with the Contractor after the contract has been awarded to ensure the implementation requirements are delivered, activities identified, timescales are established, and expectations met as set out in the tender.
  - b. Adequate time should be set aside for mobilisation activities in the planning of a procurement to make sure that the right contract management processes and relationship can be developed prior to contract going live.

## ORDERING

31. After a tender or quotation has been accepted in writing (via the Councils **procurement** system if over £30,000) it must have a written contract agreed and a proper Council Purchase Order, in accordance with Part F (7) and must be issued before goods are supplied, services delivered or works begin.

## CONTRACT & SUPPLIER RELATIONSHIP MANAGEMENT

32. Manager and **PCM** responsibilities:

- a. Contract management involves the oversight and administration of a contract throughout its lifecycle, including:
  - i. Ensuring **day-to-day management and** compliance with the specification, pricing and contract terms.
  - ii. **Performance monitoring against** key performance indicators (where applied) on a regular basis with any **under-performance** addressed.
  - iii. Regular budget monitoring and cost reconciliation of payments to ensure the contract sum is not exceeded.
  - iv. Effectively managing disputes and resolutions using appropriate contractual and non-contractual levers.
  - v. Conducting contract risk assessments.
  - vi. **Carrying out annual due diligence in relation to evidence of insurances and other compliance certificates that feature end dates.**
  - vii. **Carrying out annual due diligence in relation to financial stability of strategically significant suppliers.**
  - viii. **Consulting Legal Services if significant compliance issues emerge.**
- b. In the case of Corporate Contracts / Frameworks **PCM** shall be responsible for the contract management with support from the key managers of the Corporate Contract / Framework.
- c. **Where applicable or where key performance indicators have been set in accordance with 18(c), performance should be assessed at least once every 12 months and on termination. The Manager will inform PCM of the performance ratings in a timely manner using the same standardised rating system namely:**
  - i. **Good: Performance is meeting or exceeding the KPIs**
  - ii. **Approaching target: Performance is close to meeting the KPIs**
  - iii. **Requires improvement: Performance is below the KPIs**
  - iv. **Inadequate: Performance is significantly below the KPIs**
  - v. **Other: Where performance cannot be described as good, approaching target, requires improvement or inadequate**
- d. **Where applicable PCM will publish Contract Performance Notices in the public domain via Find a Tender Service.**

## CONTRACT **EXTENSIONS**, MODIFICATIONS & VARIATIONS

33. The Manager must consult **PCM** to ensure:

- a. All proposed contract **extensions**, modifications or variations (i.e., change to scope, price, period) are made well in advance of the requirement.

- b. No contract **extension**, modification or variation **will be** instructed without an **approved PDR**.
- c. Where a below threshold contract is extended, modified, varied and the value of the contract exceeds the thresholds specified in PR24 then such contract becomes covered by PR24 as if it were an above threshold contract.

## **CONTRACT **TERMINATION** - DECOMMISSIONING CONTRACTS**

### **34. Contract Termination - Decommissioning Contracts**

- a. When exiting a contract, the manager is responsible for preparing and planning for the end of the contract in advance of the expiry date and, as a minimum consider:
  - i. The notice period required for termination and to avoid any potential penalties.
  - ii. How to prevent service disruption.
  - iii. Any data needing transfer from the supplier back to the Council.
  - iv. Suppliers' equipment is returned (if applicable).
  - v. TUPE implications.
  - vi. Disposals.
- b. Where it is an above threshold contract, it is the responsibility of the Manager to inform PCM of the termination (for any reason).
- c. PCM will issue a Contract Termination Notice on Find a Tender Service.

## **DISPOSALS**

- 35. Managers are responsible for:
  - a. Complying with guidance issued by the CFO on the disposal of assets including selling, gifting, swapping or donating the asset subject to the limits set out in the Schedule of Financial Delegations to Officers in Appendix 1.
  - b. Disposal of surplus or obsolete plant and machinery or other non-land or buildings asset (and excluding ICT equipment) – must be undertaken in consultation discussed with the **PCM**.

## **DOCUMENT RETENTION**

- 36. **PCM will ensure proportionate and relevant** tender and contract management documentation **for contracts valued** over £30,000, including a copy of the contract, is retained throughout the life of the contract **and then further retained** for a minimum of 7 years after the contract end date.

## **PART H EXTERNAL ARRANGEMENTS**

### **PRINCIPLES**

- 1 All partnerships, shared services and joint working arrangements with outside bodies must be properly evaluated for risk before they are entered into and be supported by clear governance, accounting and audit arrangements.
- 2 External funding can prove an important source of income, but funding conditions must be carefully examined and evaluated for risk before any agreement is entered into to ensure they are compatible with the aims and objectives of the Council.
- 3 Legislation enables the Council to trade and/or to provide discretionary services to third parties including the general public, in the main through the establishment of trading companies/other delivery models. All such work must be within the legal framework and the respective risks and financial benefits associated with such work must be properly considered and a proportionate business case approved before any trading activities take place.

### **PARTNERSHIPS, SHARED SERVICES, POOLED BUDGETS AND JOINT WORKING**

- 4 The CFO is responsible for advising on the financing, accounting and control of partnership, shared service, pooled budget and joint working arrangements including:
  - a. Financial viability in current and future years.
  - b. Risk appraisal and risk management arrangements.
  - c. Resourcing and taxation.
  - d. Audit, security and control requirements.
  - e. Carry forward arrangements (between accounting periods).
- 5 The Monitoring Officer (MO) is responsible for advising on legal and legislative arrangements and for promoting and maintaining the same high standards of conduct in such arrangements as normally apply throughout the Council.
- 6 Managers are responsible for:
  - a. Ensuring that the CFO and MO are involved in the planning for any such arrangements at an early stage.
  - b. Ensuring that any such arrangements do not impact adversely upon Council services, that risk assessments have been carried out and that appropriate approvals have been obtained before entering into any agreements.
  - c. Ensuring that agreements and arrangements are properly documented.
  - d. Maintaining local registers of partnerships entered into.
  - e. Providing appropriate information to the CFO to enable relevant entries to be made in the Council's accounts.
  - f. Ensuring that appropriate mechanisms are in place to monitor and report on performance.
  - g. Consulting with the Corporate Property Officer if there is any proposal to utilise Council land or buildings in pursuit of a partnership, shared service, pooled budget or joint working initiative.



## **EXTERNAL FUNDING**

- 7 The CFO is responsible for:
- a. Approving bids for external funding that may be put forward by councillors or managers prior to submission of any bid.
  - b. Ensuring that any match funding or part funding requirements are considered prior to entering into any agreement, that future Revenue Budgets reflect these requirements, and that any longer-term sustainability costs have been properly assessed.
  - c. Approving bids where delegated to do so in line with the requirements of the Corporate Scheme of Financial Delegations (Appendix 1).
  - d. Ensuring that all external funding is received and properly recorded in the Council's accounts and in the name of the Council.
  - e. Maintaining a central register of external funding/grant arrangements.
  - f. Ensuring that all audit requirements are met.
- 8 Managers are responsible for ensuring that:
- a. The CFO is involved in preparing for, and approving, any bid for external funding prior to submission of such bids. (This includes joint bids where the Council is not lead body)
  - b. The sustainability of funding is assessed for risk; all agreements entered into are consistent with and support the Council's service priorities.
  - c. The necessary approvals are obtained to accept funding in line with the requirements of the Corporate Scheme of Financial Delegations (Appendix 1).
  - d. All claims for funds are made by the due date.
  - e. Work is progressed in accordance with the agreed project plan and all expenditure is properly incurred and recorded.

## **TRADING (including providing discretionary services to third parties and the public)**

- 9 The MO is responsible for providing or obtaining all necessary legal advice to ensure that all such proposals are undertaken within the legal framework.
- 10 The CFO is responsible for:
- a. Issuing guidance on the assessment of trading opportunities and options.
  - b. Advising on and approving the financial implications of any proposed trading arrangements between the Council and third parties.
  - c. Advising on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with Council and statutory requirements and that the results of trading operations are properly recorded and reported.
  - d. Ensuring appropriate insurance arrangements are in place.
- 11 Managers are responsible for:
- a. Identifying trading opportunities and evaluating the respective risks and financial benefits in accordance with the guidance issued by the CFO.
  - b. Obtaining all necessary legal advice to ensure the terms and conditions of all trading contracts are reasonable and are proportionately documented.
  - c. Obtaining business case approval, in line with the requirements of the Corporate Scheme of Financial Delegations (Appendix 1), before any negotiations are concluded to trade or work for third parties.

- d. Maintaining a local register of all trading contracts entered into.
- e. Collecting all contractual income due and ensuring the Council is not put at risk from any bad debts.
- f. Ensuring that no contract will be subsidised by the Council providing financial assistance either directly or indirectly.
- g. Ensuring that such contracts do not impact adversely impact upon services provided by the Council.
- h. Ensuring that the service has the appropriate expertise to undertake the contract.
- i. Complying with guidance issued by the CFO in relation to the operation of trading accounts and the proper recording and reporting of trading results.

## **Glossary of Common Terms**

<b>Budget</b>	A plan expressed in financial terms that is an estimate of the resource required to deliver the services/priorities of the Council
<b>Budget Heads</b>	A main area of revenue or capital spend as defined by the Budget and/or Capital Programme
<b>Business Plan</b>	A plan defined for the purposes of service planning and reporting at the Council as specified by the Chief Executive
<b>Cost centre</b>	A budgeting level which usually reflects a whole service area, or main sub-category of a service. It encompasses a number of standard 'subjective' coding areas such as those used for staffing related costs, supplies & services, income etc.
<b>Capital</b>	The organisation's total assets less its liabilities
<b>Capital expenditure</b>	Expenditure to acquire fixed assets that will be of use for more than the year in which they are acquired, and which adds to the Council's tangible assets rather than simply maintaining existing ones
<b>Intra Vires</b>	Acting within the statutory powers of the organisation
<b>Joint Venture</b>	Collaboration between two or more economically independent organisations (in practice one of which will be from the private sector) to achieve a joint aim, either contractually (gain/share) or through setting up a separate jointly owned entity
<b>Outsourcing</b>	The entering into of a contract with a provider (private sector, social enterprise/third sector, mutual or joint venture) to deliver services
<b>p-cards</b>	A term to describe all forms of 'purchasing/payment cards' including credit cards, debit card, store cards (excludes pre-loaded card)
<b>Revenue</b>	Income or expenditure, arising from or spent on, day to day activities and short-lived commodities or consumables
<b>Service plan</b>	A plan setting out priorities and service ambitions
<b>A service specific financial system</b>	Any system that supplements, integrates or interfaces with the main accounting system – examples (but not limited to) HR system, social care records system, asset management systems
<b>Shared Service</b>	A voluntary collaboration between public sector bodies to deliver services/provide facilities
<b>Threshold(s)</b>	Means the financial amount(s) described within PCR15, CCR16, PR24 above and below which certain Regulations apply or do not apply
<b>Ultra Vires</b>	Acting beyond the statutory powers of the organisation
<b>Value for Money (VFM)</b>	The simple National Audit Office definition is 'Optimal use of resources to achieve intended outcomes and purpose'. The more complex Audit Commission definition is 'obtaining maximum benefit over time with the resources available, achieving the right local balance between economy, efficiency and effectiveness, or spending less, spending well and spending wisely to achieve local priorities. VFM is high when there is optimum balance between all three elements, when costs are relatively and comparatively low, productivity is high and successful outcomes have been achieved'.

## Acronyms

<b>AGS</b>	Annual Governance Statement
<b>CCR16</b>	Concession Contracts Regulations 2016
<b>CFO</b>	The Chief Finance Officer ( <b>Director of Finance</b> )
<b>CIA</b>	The Chief Internal Auditor ( <b>Head of Audit &amp; Management Assurance</b> )
<b>CPO</b>	Corporate Property Officer (the CFO)
<b>CPV (code)</b>	Common Procurement Vocabulary Code
<b>CPQ</b>	Construction Pre-qualification Questionnaire
<b>FTS</b>	Find a Tender Service (Replacement to OJEU as of 23:00 on 31.12.2020)
<b>FMS</b>	The budgeting and <u>financial management system</u> used at the Council (Dynamics F&O)
<b>HHR</b>	Head of Human Resources ( <b>Director of People and Culture</b> )
<b>HMRC</b>	Her Majesty's Revenue and Customs
<b>HPS</b>	The Head of Paid Service (designated as the Chief Executive)
<b>ICE</b>	Institution of Civil Engineers
<b>ITQ</b>	Invitation to quote
<b>ITT</b>	Invitation to tender
<b>LEA</b>	Local Education Authority
<b>LMS</b>	Local Management for Schools Scheme
<b>MO</b>	The Monitoring Officer ( <b>Director of Law &amp; Governance</b> )
<b>MLRO</b>	The Money Laundering Reporting Officer (the Chief Internal Auditor)
<b>MTFP</b>	Medium Term Financial Plan
<b>NI(C)</b>	National Insurance (contributions)
<b>OJEU</b>	Official Journal of the European Union – Replaced by UK e-Notification Service (Find a Tender Service - FTS) as of 23:00 on 31.12.2020
<b>PAYE</b>	Pay as you earn
<b>PCR15</b>	Public Contracts Regulations 2015
<b>PCM</b>	<b>Procurement and Contract Management</b>
<b>PCN</b>	Penalty Charge Notice
<b>PR24</b>	<b>Procurement Regulations 2024</b>
<b>SOPPs</b>	Accounting <u>Standards of Professional Practice</u> (Code of Practice on Local Authority Accounting:)
<b>SORP</b>	Statement of Recommended Practice
<b>SQ</b>	Selection Questionnaire
<b>TMS</b>	Treasury Management Strategy
<b>SeRCOP</b>	Service (expenditure)Reporting Code of Practice
<b>VFM</b>	Value for Money
<b>VAT</b>	Value Added Tax ( <b>at the prevailing VAT rate, relevant to BCP Council</b> )

## CORPORATE SCHEDULE OF FINANCIAL DELEGATIONS

### INTRODUCTION

- 1 The Corporate Schedule of Financial Delegations (**this schedule**) sets out the powers and duties delegated to various senior officers in the Council. Senior officers may appoint appropriate 'authorised officers' to act on their behalf (see 3 below), these delegations must be recorded in local Service Schemes of Delegation.
- 2 **This schedule (appendix 1) does not apply to BCP maintained schools who will operate their own schemes of delegation.**
- 3 This schedule also sets out the approved financial limits within which senior officers may conduct the Council's business. Changes to the limits/values contained within this schedule may only be made with the approval of the Chief Executive Officer. Additionally, any changes to councillor's approval levels also require the approval of Council.
- 4 For those items marked \* (asterisk) the relevant senior officer has discretion to appoint appropriate authorised officers to act on their behalf. In all cases the relevant senior officer remains accountable for the effective operation of the financial thresholds and authorities and must:
  - Maintain a local written record of delegations to authorised officers and post this on the Council's intranet pages.
  - Provide the MO/CFO with the local written record of delegations to authorised officers at any time they require it (if not transparently posted on the intranet).
  - Ensure that an appropriate segregation of duties is in operation, for example between ordering and paying for goods, between claiming and approving expenses.
  - Ensure compliance (from those authorised officers) with the financial limits in this schedule and any within the Financial Regulations (e.g. limits relating to extensions and variations) and HR Policies (e.g. limits relating to overtime, allowances, honoraria and expenses).

Note – If an individual has a formal 'Power to Deputise' delegation via a properly job evaluated Job Description then this schedule can be read as apply to them (i.e. without formal delegation recording requirements as per 3 above).
- 5 This schedule is not a standalone document and should be read in conjunction with the relevant section of the Council's Financial Regulations and Constitution which is shown in brackets at the top of each section within this Corporate Schedule. The 'Approver' is responsible for obtaining all appropriate advice from support services such as Human Resources (HR), Legal, Finance, ICT, Property services before making decisions to approve.
- 6 The term cabinet member, in the approver column, means the appropriate or relevant cabinet member pertaining to the decision (not any available cabinet member). Alternatively, the Leader may determine who the appropriate or relevant cabinet member is.

## FINANCIAL MONITORING AND CONTROL (FINANCIAL REGULATIONS – PART D)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
<b>Revenue Virement (RV)</b> - the term 'either individually or in aggregate for the financial year' is being used to prevent disaggregation or fragmentation of virement to circumvent the required approvals			
RV1	To approve any virement (either individually or in aggregate for the financial year).	Over £1M	Council (after advice from the CFO)
RV2	To approve any virement (either individually or in aggregate for the financial year).	Over £500k and up to £1M	Cabinet / cabinet member (after advice from the CFO)
RV3	To approve virement <b>within or between</b> Service/Business Plans and/or projects/programmes in their portfolio areas (either individually or in aggregate for the financial year).	Over £100k and up to £500k	Corporate Director (after advice from the CFO*)
RV4	To approve virement within their Service/Business Plans and/or within or between projects/programmes for which they are responsible (either individually or in aggregate for the financial year).	Up to £100k	Service Director* (after advice from the CFO*)
RV5	To approve virement from within existing Service/Business Plans or between Service/Business Plans, projects or programmes within their areas of responsibility into new or otherwise unplanned functions and activities if savings are available to be re-directed into the new activity.	Up to £100k	Service Director* (after advice from the CFO*)
RV6	To approve the: <ul style="list-style-type: none"> <li>• correction of errors to the initial budget upload</li> <li>• correction of errors to an approved virement</li> <li>• distribution of any centrally held budgets, as presented to Council agreeing the annual budget, where there is no change to the overall net budget of the Council or the council tax requirement within the main Financial System</li> </ul>	Unlimited	CFO*
Revenue virement is only permissible in the following circumstances: <ul style="list-style-type: none"> <li>• to reflect a reorganisation/restructure</li> <li>• to reflect a change in corporate priorities</li> <li>• the receipt of additional income, grant or other funding (and the associated expenditure)</li> <li>• the distribution or redistribution of centrally held budgets</li> <li>• the correction of errors to initial budget upload</li> </ul>			The following virement are generally not permitted <ul style="list-style-type: none"> <li>• virement between capital and revenue</li> <li>• virement between controllable and non-controllable (recharges and capital financing) codes</li> </ul>

## FINANCIAL MONITORING AND CONTROL (FINANCIAL REGULATIONS – PART D)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
<b><u>Capital Virement (CV)</u></b>			
CV1	To approve virement between individually approved schemes	Over £1M	Council (via Budget Monitoring Report after advice from the CFO)
		Over £500k and up to £1M	Cabinet / cabinet member (after advice from the CFO)
		Over £100k and up to £500k	Corporate Director (after advice from the CFO*)
		Up to £100k	Service Director * (after advice from the CFO*)
CV2	To approve re-phasing between years of individually approved schemes.	Any value	Service Director * (after advice from the CFO*)
CV3	To approve the correction of errors to initial budget load or approved virement within the main Financial System.	Any value	CFO*
<b><u>The Capital Programme (CP) (approving new schemes in-year and approving changes to external funding in-year)</u></b>			
CP1	To approve a new project, programme or scheme that <b>is not</b> in the Capital Programme (as approved as part of the annual budget setting process) and where a new external capital grant(s) is awarded to cover the costs of the project, programme or scheme, or it is proposed to transfer a scheme from one Council Fund to another (e.g. General Fund to HRA)	As per CV1 above	As per CV1 above
CP2	To approve a new project, programme or scheme that <b>is not</b> in the Capital Programme (as approved as part of the annual budget setting process) and CP1 does not apply – so new borrowing or other new external funding sources is required to cover the costs of the project, programme or scheme.	As per CV1 above	As per CV1 above
CP3	To approve a project, programme or scheme if the external funding or borrowing sources are different from the external funding or borrowing sources agreed at the original approval point. (e.g. prudential borrowing approved but borrowing required is now greater/less)	As per CV1 above	As per CV1 above

## FINANCIAL SYSTEMS AND PROCEDURES (FINANCIAL REGULATIONS – PART F)

INCOME			
REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
INC1	Sundry debt write-offs (not cancellation)  (Sundry debt 'cancellation' can only occur in circumstances where the original debt was raised in error, in all other circumstances this write-off procedure applies)	Up to £1k	Service Director *
		£1k to £25k	Service Director
		£25k to £100k	Corporate Director in consultation with CFO and cabinet member
		Over £100k	Head of Paid Service in consultation with the CFO and Leader
INC2	Council tax, NDR, write offs and housing benefits overpayment recovery	Up to £1k	Heads of Service in Revenues & Benefits *
		Over £1k and up to £10k	Heads of Service in Revenues & Benefits
		Over £10k	CFO
INC3	Council Housing tenant rent arrears write offs (including former tenants)	Up to £1k	Service Director (for Housing) *
		Over £1k and up to £5k	Service Director (for Housing)
		Over £5k	Service Director, CFO and MO
INC4	Fees & charges	Increase/decrease of existing	Service Director in consultation with cabinet member & CFO
		Any waiving, suspending or refunding of existing	Service Director
		Agreeing any new	Cabinet (and Council if over £1M annual value)
INC5	Any means tested or assessed financial contributions	Waiving, suspending or refunding up to £1k (aggregate not individual)	Service Director *
		Waiving, suspending or refunding over £1k (aggregate not individual)	Service Director in consultation with CFO *
INC6	Penalty Charge Notices (PCN) write offs	Unlimited	Service Director (responsible for Parking Services) *



<b>EXPENDITURE (all approvals assume the availability of an approved budget/allocation, except EX7)</b>			
<b>REF</b>	<b>DESCRIPTION</b>	<b>CATEGORY</b>	<b>APPROVER</b>
EX1	Approving capital scheme details prior to the placement of any initial order/contract to start on site or commit to purchase a service. Such approval shall reference back to the ‘three categories’ of approvals agreed in the ‘Annual Approval of The Capital Programme Report’ or other such report where Council agreed The Capital Programme. The three categories of approval are Unconditional, Conditional, Requires subsequent Cabinet approval - in most cases the agreed Capital Programme is only a broad allocation of funding and not approval to proceed (unless the ‘unconditional’ category was approved by Council.	Unconditional	Service Director *
		Conditional	Service Director and CFO to agree conditions have been met
		Requires subsequent approval	Cabinet / cabinet member
<b>REF</b>	<b>DESCRIPTION</b>	<b>LIMIT / VALUE / THRESHOLD</b>	<b>APPROVER</b>
EX2	Approving expenditure commitments with suppliers / contractors for the supply of goods, services or works, in the form of Purchase Orders, contract award letters and/or signing contacts.	Any value	Service Director *
EX3	Receiving and receipting goods, services and works	Any value	Service Director *
EX4	Approving payment of invoices or contract stage payments (where the corporate purchasing system has not been used)	Any value	Service Director *
EX5	Approving expenditure on P- Cards+ Individual transaction limit Monthly transaction limit Variations to transaction limits above (individual or monthly)	Up to £1000	Service Director *
		Up to £5000	Service Director *
		Any variation	CFO *
EX6	Approving individual client cash floats (exceptional use) (client cash floats should not be confused with petty cash which have been abolished)	Up to £500	Service Director *
		Over £500	Service Director and CFO *
EX7	Approving ‘Emergency expenditure’ – incurring such expenditure by any means that is reasonable in the circumstances  (in response to a major civil emergency, disaster or similar such event)	Any value	Any one of the following in rank order  BCP Gold Commander, Chief Executive, any Corporate Director, CFO, MO
EX8	Approving all expenditure on salaries, wages, allowances and expenses, for establishment posts, in compliance with the Council’s HR policies	Any value	Service Director*

+ the term p-card means purchasing card, payment card, credit card or whatever card type BCP Council chooses to use.  
EX5 does not apply to pre-loaded cards which must be approved by the CFO

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
EX9	<p>Appointment of Interim Staffing (contract of employment or contract for service)</p> <p>Individuals used to fill any temporary new post and existing posts, where there is a need to pay above the job evaluated rate, in circumstances where for whatever reason it is not possible and/or desirable to make a permanent appointment into the post. Such posts will generally be senior managerial or of a specialist professional nature, but where the post-holder is appointed on a temporary basis. The focus is on the individual and their specialist skills and knowledge. Interims may be considered appropriate at a time when the service or team concerned, or the wider Council is in a phase of rapid transition or when there are specific legislative or national drivers for change which need to be implemented in a defined time period. Interims may be employed directly by the Council on a fixed-term contract (including by way of the Professional Register) or via a procurement process, either as an employee, if retained through the Professional Register, or as an agency worker, or on a self-employed basis under a contract for services. In the latter case, payment is normally negotiated on a day rate as opposed to an hourly rate and must be approved by the HHR.</p> <p>Business case must include identification of previously agreed budget source</p>	Up to £30k	Service Director * Additional approval of HHR if contract for service is preferred over a contract of employment to ensure IR35 tax compliance
		Over £30k and up to £100k	Service Director to complete a business case for approval by Corporate Director Additional approval of HHR if contract for service is preferred over a contract of employment to ensure IR35 tax compliance
		Over £100k (or if the day rate is greater than £750 per day)	Corporate Director to complete a business case for approval by the Chief Executive Additional approval of HHR if contract for service is preferred over a contract of employment to ensure IR35 tax compliance
EX10	<p>Appointment of a Consultant (contract for service)</p> <p>Individuals or organisations used to provide objective advice and assistance of a specialist nature, where existing Council employees do not have the necessary relevant expertise or where in-house capacity is insufficient. Such arrangements may relate to the strategy, structure, management, or operations of the Council, or specific professional input to a project in pursuit of the Council's purposes and objectives (typically, there will be no corresponding Council post on the authorised staffing establishment). Consultancy assistance is provided outside the Council's established staffing structure and "business as usual" environment when in-house skills are not available. As a result, the use of consultants will be for a defined (and preferably short-term) period and to achieve specific outcomes.</p> <p>Business case must include identification of previously agreed budget source</p>	Up to £30k	Service Director *
		Over £30k and Up to £100k	Service Director to complete a business case for approval by Corporate Director
		Over £100k (or if the day rate is greater than £750 per day)	Corporate Director to complete a business case for approval by the Chief Executive
EX11	<p>Approving where a 'Contract for Service' is to be offered to a bona fide self-employed individual who has held employment with the Council in the last 3 years.</p>	Any value	Chief Executive (with advice from CFO and HHR)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
EX12	Approving where a permanent or fixed term (exceeding 12 months) 'Contract of Employment' is to be offered to any individual made redundant (compulsory or voluntary) within the last 12 months from any role within the Council	Any Value	Corporate Director (after advice from CFO and HHR)
EX13	Special Severance Payments (any severance exceeding statutory entitlement) Including: Payments reached under a settlement agreement, write-offs of any outstanding loans, payments to employees for retraining related to their termination of employment, pay or compensation in lieu of notice where the amount of the payment is not greater than the salary due in the period of notice set out in the employee's contract, pension strain payments arising from employer discretions to enhance standard pension benefits. If such as special severance payment is to be paid to any individual who is normally on the approver list opposite, then that individual must not be involved in the approval. If a formal deputy exists, then they should act as the approver. The Approver must ensure the statutory guidance is followed : <a href="#">Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England - GOV.UK</a>	Up to £20,000	Service Director, Director of People & Culture, CFO & MO
		£20,000 to £100,000	Service Director, Director of People & Culture, CFO, MO, HPS, Leader of the Council
		Over £100,000	Full Council (as per Localism Act)
EX14	Approving all expenditure on external legal services	Any Value	MO*

#### TREASURY MANAGEMENT, FINANCING & LEASING

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
TM1	Placing of treasury investments and all approvals to borrow	In line with Treasury Management Strategy (TMS) and appended policies and within any operational lower limits	CFO* as authorised to transact in accordance with TMS. Any variation from TMS requires Council sign off.
TM2	Approving all leases, credit arrangements or hire purchase arrangements	All such arrangements	CFO* to determine approval route specific to the individual circumstance
TM3	Approving any funds (and the system of administration) to be held on behalf of third parties.	All such arrangements	Service Director* and CFO*

#### ASSET MANAGEMENT

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
AM1	Writing off deficiencies in stocks, stores & inventories	Up to £1,000	Service Director *
		£1k to £50k	Service Director * and CFO
		Over £50k	Cabinet / cabinet member

	(limits/value/threshold is 'book' value/accounting value not estimated sales value)		(after advice from CFO)
AM2	Acquisition of freehold & leasehold land & buildings. The acquisition of a freehold, leasehold, or any other interest in land or buildings subject to the purchase being no more than market value unless 'Special Purchaser' assumptions can be made.	Up to £350k (capital value)	Corporate Property Officer *
		£350k to £500k (capital value)	Cabinet / cabinet member
		Over £500k (capital value)	Council
AM3	Acquisition of freehold & leasehold land & buildings at more than market value and 'Special Purchaser' assumptions cannot be made.	Any value	Council
AM4	Disposal of freehold & leasehold land & buildings. Disposal by way of a sale, lease, licence, wayleave, easement, deed of variation, renewal, surrender, modification of covenant, or other disposal of an interest in land or buildings using any method that achieves best consideration.	Up to £350k (capital value)	Corporate Property Officer *
		£350k to £500k (capital value)	Cabinet / cabinet member
		Over £500k (capital value)	Council
AM5	Agreeing disposals of any land or building asset not to the highest bidder or where there is a difference between the estimated open market value (or best consideration) and the actual sales price. (Seek legal advice if land is open space).	Up to £350k (capital value)	Corporate Property Officer in consultation with the CFO
		£350k to £500k (capital value)	Cabinet / cabinet member
		Over £500k (capital value)	Council
AM6	Value for including items in fixed assets register	Over £10k	Service Director *
AM7	Disposal of surplus or obsolete plant and machinery or other non-land or buildings asset (and excluding ICT equipment) **  (limits/value/threshold is 'book' value/accounting value not estimated sales value)	Any disposal <b>not</b> to the highest bidder (or gifted at nil value)	Service Director* and CFO*
		Any disposal £0k to £100k to the highest bidder	Service Director* and CFO*
		Any disposal £100k to £500k to the highest bidder	Corporate Director* and CFO*
		Any disposal over £500k	Cabinet / cabinet member and CFO
AM8	Any acquisition of ICT equipment and ICT services	All acquisitions	By ICT services or with the approval of the Head of ICT *
AM9	Any disposal of ICT equipment including donations to schools or charities **	Any or nil value, no exceptions	All disposals through ICT Services
AM10	Approving the use of Council assets outside of normal Council business activity and after obtaining MO* and insurance advice from the CFO*	Any land or buildings	Corporate Property Officer *
		Non land or buildings (and excluding ICT equipment)	Service Director *

		ICT equipment	Head of ICT *
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\*\*Also refer to the Council's Corporate Disposals Policy

### EXTERNAL ARRANGEMENTS (FINANCIAL REGULATIONS – PART H)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER (after obtaining advice from the CFO, MO and HHR)
EA1	Entering the Council into partnership, shared service, pooled budget or joint working arrangements (including Memoranda of Understanding)	Any (including where a direct financial contribution is not obvious)	In accordance with the Council's Constitution Part 2, Article 12 - Decision making, Section 3 - Types of decisions).
EA2	External trading contracts, arrangements or concepts – business case approval, (providing discretionary services to a third party, including the public, in exchange for a fee)	Any contract up to £100,000	Service Director *
		New contracts between £100,000 and £0.5M	Corporate Director
		Incremental contracts between £100,000 and £0.5M	Service Director
		All Contracts over £0.5M	Cabinet / cabinet member
EA3	Submitting any bid for external funding (including joint bids where the Council is not lead body)	Any value	Service Director * with the agreement of the CFO *
EA4	Accepting external funding (BCP aggregate total including any 'match-funding' element and partner(s) share(s) if BCP is lead body or 'host')	Up to £500,000	Service Director * and CFO *
		Between £500,000 and £1.0M	Cabinet / cabinet member (with advice from the CFO)
		Over £1.0M	Council (with advice from the CFO)

For the purposes of EA2 above the following definitions apply:

- New (trading) contracts = the contract, arrangement/concept has not previously been traded
- Incremental (trading) contracts = the contract, arrangement/concept has already been approved applying the approval thresholds above, subsequent incremental trading growth through a series of additional contracts

### OTHER DELEGATIONS - TAX RELIEF SCHEMES

REF	DESCRIPTION	APPROVER
TR1	To implement Central Government fully funded council tax, business rate or other tax rebate relief schemes where implementation requires the Council to use its discretionary powers under either Section 47 of the Local Government Finance Act 1988 or Section 13A of the Local Government Finance Act 1992.	CFO
TR2	To implement Non-Domestic Rates criteria under section 49 and section 44a of the Local Government Finance Act 1988 regarding Hardship Relief and Part Occupation Relief.	CFO in consultation with Portfolio Holder for Finance

## BCP COUNCIL - FUNCTIONS OF THE AUDIT & GOVERNANCE COMMITTEE

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

Our Audit & Governance Committee is a key component of Bournemouth, Christchurch and Poole (BCP) 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.

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 BCP 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

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).

To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

To consider arrangements for risk management including the approval of the Risk Management Strategy and review of the Council's corporate risk register.

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.

To review the governance and assurance arrangements for significant partnerships or collaborations.

### Internal Audit

To approve the Internal Audit Charter.

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.

To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.

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: a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work b) regular reports on the results of the Quality Assurance Improvement Programme (QAIP) c) 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 non-conformance is significant enough that it must be included in the Annual Governance Statement (AGS).

To consider the Head of Internal Audit's annual report: a) 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. b) 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.

To consider summaries of specific internal audit reports as scheduled in the forward plan for the Committee or otherwise requested by Councillors.

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.

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.

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**

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).

To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.

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.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

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).

To liaise with the national body (currently Public Sector Audit Appointments (Ltd)) (PSAA) over the appointment of the Council's External Auditors.

To consider reports dealing with the management and performance of the External Audit function.

To consider and approve the Annual Plans of the External Auditor.

### **Financial Reporting**

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.

To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

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.

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**

To consider arrangements for treasury management including approving the Treasury Management Strategy and monitoring the performance of this function.

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).

To consider breaches and exemptions of the Financial Regulations.

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.

To consider arrangements for information governance, health and safety, fire safety, emergency planning (including business continuity).

To consider any issue of Council non-compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.

To consider gifts and hospitality registers relating to officers.



## MINOR AMENDMENTS AND EDITING LOG (during 2025-26)

The Chief Finance Officer (CFO) has primary responsibilities for maintaining the Financial Regulations as outlined in Part A page 5. Where changes affect the powers or responsibilities of councillors, approval of Council is required.

It is recognised there may be a need to clarify certain elements of the Financial Regulations from time to time, this may require minor amendments or editing. The CFO has delegated to the Chief Internal Auditor (CIA) and Strategic Procurement Manager (SPM) the ability to make minor amendments and editing changes. Any such changes are logged in the table below.

No.	Description of amendments or editing	Page	Date
1	<p><b>V1.2 Change to EX2 in Appendix 1 to clarify the inclusion of works:</b></p> <p>Did state : Approving placement of orders (any commitments including contract award letters) with suppliers/contractors for goods and services</p> <p>Now states : Approving expenditure commitments with suppliers / contractors for the supply of goods, services or works, in the form of Purchase Orders, contract award letters and/or signing contacts.</p>	54	17/4/25
2			
3			

## **FINANCIAL REGULATIONS**

**BACK COVER ONLY**

# 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 - Protocol for Speaking / Statements	32
Schedule 5	Planning Committee - Site Visit Protocol	40
Schedule 6	Planning Committee – Protocol in Relation to Pre-application Presentations	44
Schedule 7	Licensing Committee and Sub-Committee - Protocol for Public Speaking	47
Schedule 8	Licensing Committee and Sub-Committee - Site Visit Protocol	52
Schedule 9	Guidance to Councillors and Officers Appointed to Outside Bodies	55

## 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 behaviours 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 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 them in carrying out their duties as a councillor, or towards their 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 their 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 their 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>Licences</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 their 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 their 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

You must register as an Other Registerable Interest:

- (a) any unpaid directorships
- (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
- (c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
 of which you are a member or in a position of general control or management



# 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 must provide an initial response to the complaint within 14 calendar days. Failure to provide a response in this timeframe is likely to be considered a failure to cooperate with the investigation required under paragraph 8.2 of the Council's Code of Conduct. Unless exceptional circumstances exist which the Monitoring Officer considers justifying an extension of time, the complaint will be referred to the Chair for determination after the 14-day period regardless of whether or not a response has been received.
- 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 compromised.
  - 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 Chair 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 Chair 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. References to the Planning Committee in this Code and subsequent schedules contained in this Part 6 of the Constitution shall apply equally to both Area Planning Committees.
- 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 their 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 Chair 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 Chair 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 (including any related officer presentation and public speaking) 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.
- 5.2. No councillor shall sit as a member or substitute member on the Planning Committee unless they have received appropriate training provided for this purpose.

# PLANNING COMMITTEE - PROTOCOL FOR SPEAKING / STATEMENTS AT PLANNING COMMITTEE

## 1. Introduction

- 1.1 The following protocol facilitates opportunities for applicant(s), objector(s) and supporter(s) to express their views on planning applications which are to be considered at a Planning Committee meeting. It does not therefore relate to any other item considered at Planning Committee in respect of which public speaking/questions shall only be permitted at the discretion of the Chair.
- 1.2 This protocol is separate from and is not intended to replicate or replace the procedure for submitting a written representation on a planning application to the Council during the consultation period.
- 1.3 **The email address for any person who wishes to register a request to speak and / or submit a statement for the purposes of this protocol or to correspond with Democratic Services on any aspect of this protocol is [democratic.services@bcpcouncil.gov.uk](mailto:democratic.services@bcpcouncil.gov.uk)**

## 2. Order of presentation of an application

- 2.1 The running order in which planning applications are heard will usually follow the order as appears on the agenda unless the Planning Committee otherwise determines.
- 2.2 In considering each application the Committee will normally take contributions in the following order:
  - a) presenting officer(s);
  - b) objector(s);
  - c) applicant(s) /supporter(s);
  - d) councillor who has called in an application (who is not a voting member of the Planning Committee in relation to that application) / ward councillor(s);
  - e) questions and discussion by voting members of the Planning Committee, which may include seeking points of clarification.

## 3. Guidance relating to the application of this protocol

- 3.1 The allocation of an opportunity to speak / provide a statement to be read out at Planning Committee under this protocol is not intended as a guarantee of a right to speak / have a statement read out.

- 3.2 The Chair has absolute discretion as to how this protocol shall be applied in respect of any individual application so far as it relates to the conduct of the meeting and as provided for in this protocol including whether in any circumstance it should be waived, added to or otherwise modified. This discretion includes the opportunity to speak (or submit a statement), varying the speaking time allowed and the number of speakers. In the event of any uncertainty as to the interpretation or application of any part of this protocol a determination by the Chair will be conclusive.
- 3.3 A failure to make a request to speak / submit a statement in accordance with any one or more of the requirements of this protocol will normally result in the request / submission of the statement not being treated as validly made and therefore not accepted.

#### **4. Electronic facilities relating to Planning Committee**

- 4.1. All electronic broadcasting and recording of a Planning Committee meeting by the Council and the provision of an opportunity to speak remotely at such a meeting is dependent upon such matters being accessible, operational and useable during the meeting. As a consequence, a meeting other than a wholly virtual meeting may proceed, including consideration of all applications relating to it, even if it cannot be electronically broadcast, recorded and/or any person is unable to speak / be heard at the time when the opportunity to do so on an application is made available.

#### **5. Attending in person at a Planning Committee meeting/ wholly virtual meetings**

- 5.1. Unless otherwise stated on the Council's website and/or the agenda Planning Committee will be held as a physical (in person) meeting. A Planning Committee meeting will only be held as a wholly virtual meeting during such time as a decision has been taken by BCP Council that committee meetings of the Council may be held in this way. In the event of there being a discretion as to whether a Planning Committee meeting shall be held as a wholly virtual meeting, then the Head of Planning in consultation with the Chair shall be able to determine whether such a discretion should be applied.

#### **6. Provisions for speaking at Planning Committee (whether in person or remotely)**

- 6.1. Any applicant, objector or supporter who wishes to speak at a Planning Committee meeting must register a request to speak in writing with Democratic Services at [democratic.services@bcpcouncil.gov.uk](mailto:democratic.services@bcpcouncil.gov.uk) by **10.00 am of the working day before the meeting.**
- 6.2. A person registering a request to speak must:
- a) make clear as to the application(s) on which they wish to speak and whether they support or oppose the application; and
  - b) provide contact details including a telephone number and/or email address at which they can be reached / advised that they have been given an opportunity to speak.

- 6.3. There will be a maximum combined time of **five** minutes allowed for any person(s) objecting to an application to speak. A further combined **five** minute maximum will also be allowed for any supporter(s). Up to **two** people may speak during each of these allotted times (the applicant(s) and any agent for the applicant(s) will each count as separate speakers in support). No speaker may speak for more than half this time (i.e. **two and a half minutes**) unless:
- a) there is no other speaker who has also been allotted to speak for the remainder of the five minutes allowed;
  - b) or the other allotted speaker fails to be present or is unable to be heard (in the case of remote speaking), at the Planning Committee meeting at the time when the opportunity to speak on the application is made available; or
  - c) the other allotted speaker expressly agrees to the speaker using more than half of the total speaking time allowed.
- 6.4. If more than two people seek to register a wish to speak for either side, an officer from Democratic Services may ask those seeking the opportunity to speak to appoint up to two representatives to address the Planning Committee. In the absence of agreement as to representatives, entitlement to speak will normally be allocated in accordance with the order when a request was received by Democratic Services. However, in the event of an applicant(s) and / or the agent of the applicant(s) wishing to speak in support of an application such person(s) will be given the option to elect to speak in preference to any other person registered to speak in support.
- 6.5. A person registered to speak may appoint a different person to speak on their behalf. The person registered to speak should normally notify Democratic Services of this appointment prior to the time that is made available to speak on the application.
- 6.6. A person may at any time withdraw their request to speak by notifying Democratic Services by email or in person on the day of that meeting. However, where such a withdrawal is made after the deadline date for receipt of requests then the available slot will not be made available for a new speaker. In cases where more than two requests to speak within the allocated five minutes were received by the deadline, Democratic Services will, where practicable, reallocate the slot in date receipt order.
- 6.7. During consideration of a planning application at a Planning Committee meeting, no question should be put or comment made to any councillor sitting on the Planning Committee by any applicant, objector or supporter whether as part of a speech or otherwise.

## **7. Questions to person speaking under this protocol**

- 7.1. Questions will not normally be asked of any person who has been given the opportunity to speak for the purpose of this Protocol. However, the Chair at their absolute discretion may raise points of clarification.

## **8. Speaking as a ward councillor or other BCP councillor (whether in person or remotely)**

- 8.1. Any ward councillor shall usually be afforded an opportunity to speak on an application at the Planning Committee meeting at which it is considered. Every ward councillor who is given the opportunity to speak will have up to **five** minutes each.
- 8.2. At the discretion of the Chair, any other councillor of BCP Council not sitting as a voting member of the Planning Committee may also be given the opportunity to speak on an application being considered at Planning Committee. Every such councillor will have up to **five** minutes each.
- 8.3. Any member of the Planning Committee who has exercised their call in powers to bring an application to the Planning Committee for decision should not vote on that item but subject to any requirements of the Member Code of Conduct, may have or, at the discretion of the Chair, be given the opportunity to speak in connection with it as a ward councillor or otherwise in accordance with the speaking provisions of this protocol. Such a member will usually be invited after speaking to move themselves from the area where voting members of the Planning Committee are sitting and may be requested to leave the room until consideration of that application has been concluded.

## **9. Speaking as a Parish or Town Council representative (whether in person or remotely)**

- 9.1. A Parish or Town Council representative who wishes to speak as a representative of that Parish or Town Council must register as an objector or supporter and the same provisions for speaking as apply to any other objector or supporter applies to them. This applies even if that representative is also a councillor of BCP Council.

## **10. Content of speeches (whether in person or remotely) and use of supporting material**

- 10.1. Speaking must be done in the form of an oral representation. This should only refer to planning related issues as these are the only matters the Planning Committee can consider when making decisions on planning applications. Speakers should normally direct their points to reinforcing or amplifying planning representations already made to the Council in writing in relation to the application being considered. Guidance on what constitutes planning considerations is included as part of this protocol. Speakers must take care to

avoid saying anything that might be libellous, slanderous, otherwise abusive to any person or group, including the applicant, any officer or councillor or might result in the disclosure of any personal information for which express consent has not been given.

- 10.2. A speaker who wishes to provide or rely on any photograph, illustration or other visual material when speaking (in person or remotely) must submit this to Democratic Services **by 12 noon two working days before the meeting**. All such material must be in an **electronic** format to be agreed by Democratic Services and will usually be displayed on the speaker's behalf by the presenting officer. The maximum number of slides to be displayed must not exceed **five**. Material provided after this time or in a format not agreed will not be accepted. The circulation or display of hard copies of such material at the Planning Committee meeting itself will normally not be allowed. In the interests of fairness, any material to be displayed must have already been submitted to and received by the Council as part of a representation/submission in relation to the application by the date of agenda publication for that Planning Committee meeting.
- 10.3. The ability to display material on screen is wholly dependent upon the availability and operation of suitable electronic equipment at the time of the Planning Committee meeting and cannot be guaranteed. Every person making a speech should therefore ensure that it is not dependent on such information being displayed.

## **11. Remote speaking at Planning Committee**

- 11.1. In circumstances where the Council has put in place electronic facilities which enable a member of the public to be able to speak remotely to a Planning Committee meeting, a person may request the opportunity to speak remotely via those electronic facilities using their own equipment. In circumstances other than a wholly virtual meeting this would be as an alternative to attending the meeting in person. The provisions of this protocol relating to speaking at Planning Committee shall, unless the context otherwise necessitates, equally apply to remote speaking.
- 11.2. The opportunity to speak remotely is undertaken at a person's own risk on the understanding that should any technical issues affect their ability to participate remotely the meeting may still proceed to hear the item on which they wish to speak without their participation.
- 11.3. A person attending to speak remotely may at any time be required by the Chair or the Democratic Services Officer to leave any electronic facility that may be provided.

## **12. Non-attendance/ inability to be heard at Planning Committee**

- 12.1. It is solely the responsibility of a person who has been given an opportunity to speak on an application at a Planning Committee meeting (whether in person or remotely) to ensure that they are present for that meeting at the time when an opportunity to speak is made available to them.
- 12.2. A failure / inability by any person to attend and speak in person or remotely at a Planning Committee meeting at the time made available for that person to speak on an application will normally be deemed a withdrawal of their wish to

speaking on that application. This will not therefore usually be regarded as a reason of itself to defer or prevent an application from being heard.

- 12.3. This protocol includes provisions enabling the opportunity to provide a statement as an alternative to speaking in person / as a default option in the event of a person being unable to speak at the appropriate meeting time.

### **13. Submission of statement as an alternative to speaking / for use in default**

- 13.1. A person (including a councillor of BCP Council) who has registered to speak, may submit a statement to be read out on their behalf as an alternative to speaking at a Planning Committee meeting (whether in person or remotely).
- 13.2. Further, any person speaking on an application at Planning Committee may, at their discretion, additionally submit a statement which can be read out as provided for in this protocol in the event of not being able to attend and speak in person or remotely at the time when an opportunity is made available for that person to speak on the application. The person should identify that this is the purpose of the statement.

### **14. Provisions relating to a statement**

- 14.1 Any statement submitted for the purpose of this protocol:
- a) must not exceed **450** words in total unless the statement is provided by a ward councillor or any other councillor who is not voting on the application under consideration in which case the statement may consist of up to **900** words;
  - b) must have been received by Democratic Services by **10.00am of the working day before the meeting** by emailing [democratic.services@bcpcouncil.gov.uk](mailto:democratic.services@bcpcouncil.gov.uk)
  - c) when submitted by a member of the public (as opposed to a councillor of BCP Council), will be treated as amounting to **two and a half minutes** of the total time allotted for speaking notwithstanding how long it does in fact take to read out;
  - d) must not normally be modified once the deadline time and date for receipt of the statement by Democratic Services has passed unless such modification is requested by an officer from Democratic Services; and
  - e) will normally be read out aloud by an officer from Democratic Services having regard to the order of presentation identified in this protocol.
- 14.2 A person who has been given the right to speak and who has submitted a statement in accordance with this protocol may at any time withdraw that statement prior to it being read out by giving notice to Democratic Services. Where such withdrawal occurs after the deadline date for registering a request to speak has passed, then a further opportunity for a statement to be submitted will not be made available. If the statement that has been withdrawn was submitted as an alternative to speaking, then if the person



withdrawing the statement wishes instead to exercise their opportunity to speak in person they should notify Democratic Services on or before the time of withdrawing the statement.

## **15. Assessment of information / documentation / statement**

- 15.1. BCP Council reserves the right to check any statement and any information / documentation (including any photograph, illustration or other visual material) provided to it for use at a Planning Committee meeting and to prevent the use of such information / documentation in whole or part, in particular, if it:
- a) is considered to contain information of a kind that might be libellous, slanderous, abusive to any party including an applicant or might result in the disclosure of any personal information for which express consent has not been given; and / or
  - b) is identified as having anything on it that is considered could be an electronic virus, malware or similar.
- 15.2 The Head of Planning in consultation with the Chair shall have the absolute discretion to determine whether any such statement / information / documentation should not be used / read out in whole or part. If circumstances reasonably permit, Democratic Services may seek to request a person modify such statement / information / documentation to address any issue identified.

## **16. Guidance on what amounts to a material planning consideration**

- 16.1. As at the date of adoption of this protocol, the National Planning Portal provides the following guidance on material planning considerations:

*“A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision. Material considerations can include (but are not limited to):*

- *Overlooking/loss of privacy*
- *Loss of light or overshadowing*
- *Parking*
- *Highway safety*
- *Traffic*
- *Noise*
- *Effect on listed building and conservation area*
- *Layout and density of building*
- *Design, appearance and materials*
- *Government policy*
- *Disabled persons' access*
- *Proposals in the Development Plan*
- *Previous planning decisions (including appeal decisions)*
- *Nature conservation*



*However, issues such as loss of view, or negative effect on the value of properties are not material considerations."*

[https://www.planningportal.co.uk/faqs/faq/4/what\\_are\\_material\\_considerations#:~:text=A%20material%20consideration%20is%20a,Loss%20of%20light%20or%20overshadowing](https://www.planningportal.co.uk/faqs/faq/4/what_are_material_considerations#:~:text=A%20material%20consideration%20is%20a,Loss%20of%20light%20or%20overshadowing)

## **Note**

For the purpose of this protocol:

- (a) reference to the "Chair" means the Chair of Planning Committee and shall include the Vice Chair of Planning Committee if the Chair is at any time unavailable or absent and the person presiding at the meeting of a Planning Committee at any time that both the Chair and Vice Chair of Planning Committee are unavailable or absent;
- (b) reference to the Head of Planning includes any officer nominated by them for the purposes of this protocol and if at any time the Head of Planning is unavailable, absent or the post is vacant / ceases to exist, then the Development Management Manager or if also unavailable / absent or that post is vacant/no longer exists then the next most senior officer in the development management team (or any of them if more than one) who is first contactable;
- (c) reference to 'ward councillor' means a councillor in whose ward the application being considered at a meeting of Planning Committee is situated in whole or part and who is not a voting member of the Planning Committee in respect of the application being considered; and
- (d) a "wholly virtual meeting" is a Planning Committee meeting where no one including officers and councillors physically attend the meeting; however, a meeting will not be held as a "wholly virtual meeting" unless legislation permits

Adopted by the Planning Committee on 17.11.22 and updated on 20.7.23

## **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 Chair's briefing. At the briefing the Chair, 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 Chair's briefing this will be arranged to precede the Planning Committee and a schedule for the visit will be agreed between the Chair 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 Chair and formally opened and closed. This will provide clarity as to when the site visit has formally commenced. Until the Chair closes the site visit this protocol and procedures will be adhered to.
- 4.4. At the request of the Chair, 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 Chair 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 Chair 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 Chair, (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

# **PLANNING COMMITTEE - PROTOCOL IN RELATION TO PRE-APPLICATION PRESENTATIONS**

## **1. Introduction**

- 1.1. The early engagement of councillors in relation to a potential planning application can be a positive contributor to seeking to ensure the provision of sustainable development within the area that best meets the aspirations and needs of the community.
- 1.2. The purpose of this protocol is to provide guidelines and a framework within which the Planning Committee will entertain and consider a presentation prepared for councillors by a potential applicant relating to a possible planning application that has not yet been submitted to the Council ("pre-application presentation").

## **2. Guidelines for identifying a pre-application presentation that might be taken to Planning Committee**

- 2.1. The focus for pre-application presentations is limited to significant proposals. In considering any request for a pre-application presentation regard should be had to the following criteria for the purposes of determining those that may be suitable i.e. whether the relevant senior planning officer considers that the proposal:
  - (a) is of strategic importance to the whole or part of the Council area;
  - (b) involves a matter of significant national importance that has not previously been the subject of consideration within the Council area;
  - (c) may have a significant impact on a wide number of businesses/people and/or more than one Council ward;
  - (d) is on an extant Development Plan allocation and is important to securing one or more key Development Plan objectives;
  - (e) would provide a major development of significant importance to its locality and relates to a planning application previously refused by the Planning Committee; and/or
  - (f) any other proposal whose special circumstances the Head of Planning considers would justify a pre-application presentation being allowed.

## **3. General principles relating to a pre-application presentation**

- 3.1. No part of a pre-application presentation or subsequent consideration / questions raised in relation to it is binding on the Council. Every observation / opinion given by any councillor or officer should be treated as provisional and no question asked should be taken as an indication of pre-determination with regard to the consideration of any planning application.
- 3.2. As a pre-application presentation is not part of an extant planning application, there is no requirement for any councillor to attend or participate in the pre-

application presentation in order to be able to vote on any related planning application that may subsequently be submitted.

- 3.3. The Protocol for Speaking / Statements at Planning Committee does not apply to a pre-application presentation. Neither questions nor statements by members of the public will normally be permitted.

#### **4. Proceedings relating to the consideration of a pre-application presentation at Planning Committee**

- 4.1. A pre-application presentation should normally consist of a presentation only. No other documents should be provided to councillors for the purposes of the pre-application presentation without the prior agreement of the Head of Planning and an officer from Democratic Services.
- 4.2. Documentation provided as part of the pre-application presentation should include:
- (a) a description of the site location,
  - (b) a plan sufficient to enable councillors to easily identify its location; and
  - (c) a description of the proposal to which the pre-application presentation relates that clearly enables councillors to understand the nature and extent of the proposal.
- 4.3. An electronic copy of any documentation produced for the purposes of the pre-application presentation (including any slides to be used as part of the presentation itself), should be provided to and accepted by both the Head of Planning (or any officer nominated by the Head of Planning for the purpose), and the Democratic Services Unit at least five clear working days prior to the date of publication of the Planning Committee meeting agenda to which it relates. All such documentation will normally form, and be made public as, part of the publication of the agenda for the meeting at which the pre-application presentation is scheduled to occur.
- 4.4. A pre-application presentation may be accompanied by such other information as the Head of Planning considers of assistance to councillors in relation to the presentation.
- 4.5. No part of the pre-application presentation, whether visual, written or verbal, should contain information of a kind that might be libellous, slanderous, abusive to any party or might result in the disclosure of any personal information for which express consent has not been given. Electronic information provided to the Council will not be accepted if it is identified as having anything on it that is considered could be an electronic virus, malware or similar.
- 4.6. The Council's adopted Access to Information Procedure Rules apply to a pre-application presentation. The expectation is that a pre-application presentation will usually be presented in public. However, subject as provided for in the Council's adopted Local Code of Best Practice relating to Planning Matters and in accordance with the Access to Information Procedure Rules, may be held wholly or partly as part of a meeting at which the public are excluded.

- 4.7. A pre-application presentation will normally take place prior to the consideration of any planning application at the Planning Committee meeting at which it is to be presented.
- 4.8. A pre-application presentation should not exceed more than twenty minutes (excluding any time taken by the Chair and/or any officer to introduce the presentation). An additional period of up to forty minutes will normally be allowed for questions to be asked. Such timings may be varied at the discretion of the Chair.
- 4.9. Any BCP councillor whether appointed to the Planning Committee or otherwise will usually be given the opportunity to attend a pre-application presentation and ask questions.
- 4.10. A councillor who wishes to speak should aim to confine themselves to only asking questions that raise issues relevant to the pre-application presentation. No speeches, statements or expressions of opinion will normally be permitted.
- 4.11. The order of asking questions is at the discretion of the Chair. However, where more than one councillor wishes to ask questions, the Chair will usually aim to give initial priority to members sitting on the Planning Committee followed by any councillor in whose ward the land to which the pre-application presentation relates is situated. In the event that there is insufficient time for all questions to be asked, councillors will be invited to send their questions to the Head of Planning for consideration and referral on as appropriate.
- 4.12. A pre-application presentation to the Planning Committee may be deferred/withdrawn:
- (a) from a published agenda in accordance with any relevant provision in the Constitution; and/or by a decision of the Planning Committee; or
  - (b) in advance of publication of an agenda at the absolute discretion of the Head of Planning.
- 4.13. Failure to comply with the requirements of this protocol may in particular result in a pre-application presentation being withdrawn or deferred.
- 4.14. For the purposes of this protocol, references to the “Chair” and “Head of Planning” shall, unless the context otherwise requires, have the same meanings as in the Protocol for Speaking/Statements at Planning Committee.

Adopted by the Planning Committee on 17 November 2022



# **LICENSING COMMITTEE AND SUB COMMITTEE – PROTOCOL FOR PUBLIC SPEAKING**

## **1. Introduction**

- 1.1 This protocol for public speaking applies to Licensing Committee and Sub Committee hearings in relation to matters including the licensing of alcohol, regulated entertainment, late night refreshment, gambling, sex establishments and hackney carriage and private hire drivers, vehicles and operators, as set out in Part 3.3 of the Council's Constitution.
- 1.2 These matters are considered in accordance with relevant legislation and associated regulations including the Licensing Act 2003 (as amended by the Police Reform and Social Responsibility Act 2011), the Gambling Act 2005, Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) and the Local Government (Miscellaneous Provisions) Act 1976.

## **2. Conduct of Hearings**

- 2.1 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, etc.
- 2.2 Chair asks everyone present to introduce themselves and state their role.
- 2.3 Chair checks that all persons who have given notice of their intention to speak and any person who wishes to withdraw a representation or wishes not to speak have been identified.
- 2.4 Chair explains proposed procedure and order of speaking for hearing as set out in Appendix A or B of this protocol as appropriate. All parties confirm agreement or make representations on procedure proposed.
- 2.5 Licensing Officer's report is presented.
- 2.6 Parties speak in the order agreed.
- 2.7 With the exception of hackney carriage and private hire hearings, 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 additional 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.
- 2.8 Members of the Licensing Committee or Sub Committee may ask questions after each party has spoken and once all parties have spoken. Parties will be allowed to ask questions through the Chair.
- 2.9 Once all parties have been heard, the parties will be given the opportunity to sum up. Party who spoke first to go last. The hearing will then conclude.

- 2.10 Members will deliberate in private with the clerk and legal representative as appropriate present.
- 2.11 The decision will be taken by the Committee and notification of the decision will be given as follows:
  - 2.11.1 For Licensing Act 2003 and Gambling Act 2005 hearings, determination must be 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 relevant Regulations, unless otherwise specified (for example, the issuing of a counter notice following objection to a TEN, in which case the determination must be at the conclusion of the hearing).
  - 2.11.2 For Sex Establishment and other hearings, where possible determination will be within the period of five working days beginning with the day or the last day on which the hearing was held.
  - 2.11.3 For Hackney Carriage and Private Hire hearings, notification of the decision will be given at the conclusion of the hearing, followed by a written decision letter where possible within the period of five working days beginning with the day or the last day on which the hearing was held.
- 2.12 Notification of the decision will include information for all parties of any right of appeal as appropriate.

### **3 General points**

- 3.1 Hearings convened under the Licensing Act 2003 and the Gambling Act 2005 and associated regulations may be held remotely as required, if the Chairman agrees it is expedient to do so in the circumstances.
- 3.2 The hearing may be adjourned at any time at the discretion of the Members.
- 3.3 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.
- 3.4 The Sub Committee may decide to conduct all or part of a hearing in non-public session in accordance with the relevant Regulations and/or where exempt information is likely to be disclosed.
- 3.5 The Chair may exclude any person from a hearing for being disruptive.
- 3.6 Meetings of the Licensing Committee in public session are recorded by the Council for live and subsequent broadcast on its website.
- 3.7 The hearing will take the form of a discussion.

- 3.8 Only persons (or their representatives) who have made an application, are subject to an application or have submitted a written representation or objection to the Licensing Authority under the relevant Act are permitted to speak at the hearing.
- 3.9 Any further information to support an application, representation, objection or notice (as applicable) can be submitted before the hearing. It may only be submitted at the hearing with the consent of all parties in accordance with any relevant Regulations. Wherever possible the Licensing Authority encourages parties to submit information at the earliest opportunity to allow sufficient time for this to be considered before the hearing and avoid the need for adjournment.
- 3.10 If a party has informed the Authority that they do not intend to participate, or be represented at the hearing, or has failed to advise whether they intend to participate or not, the hearing may proceed in their absence.
- 3.11 For other matters which are the responsibility of the Licensing Committee and not included in this protocol, the Meeting Procedure Rules in Part 4D of the Council's Constitution in relation to public questions, statements and petitions shall apply. This includes such matters as making recommendations on relevant licensing policies, approving the level of fees charged by the Council, and making decisions on tariffs charged by the Public Carriage Trade.
- 3.12 The Council's Constitution can be accessed using the following link:  
<https://democracy.bcpccouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>

For further information please contact [democratic.services@bcpcouncil.gov.uk](mailto:democratic.services@bcpcouncil.gov.uk)

## **Proposed procedure and order of speaking for hearings (other than hackney carriage and private hire hearings)**

1. The Licensing Officer presents report.
2. Questions of the Licensing Officer on their report. Members of the Sub-Committee to go first, then the applicant/licence holder.
3. Applicant will make their Application.
4. Questions of the Applicant by all parties, Members of the Committee/Sub-Committee to go first.
5. Responsible Authorities and Other Persons will make their representations.
6. Questions of the Responsible Authorities and Other Persons. Members of the Committee/Sub-Committee to go first.
7. All parties will be given an opportunity to sum up (with the party who spoke last to go first). The hearing will then conclude.
8. 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).
9. Notification of the Sub Committee's decision will be given in accordance with the requirements of the Licensing Act and Gambling Act regulations. For other hearings, where possible determination will be within the period of five working days beginning with the day or the last day on which the hearing was held.
10. The notification of decision will include information about the right of appeal as appropriate.

## **Proposed procedure and order of speaking for Hackney Carriage and Private Hire hearings**

1. The Licensing Officer presents their report.
2. Questions of the Licensing Officer on their report. Members of the Sub-Committee to go first, then the applicant/licence holder.
3. Applicant/licence holder presents their case.
4. Questions of the applicant/licence holder by all parties, Members of the Committee/Sub-Committee to go first.
5. All parties will be given an opportunity to sum up (with the party who spoke last to go first). The Hearing will then conclude.
6. Sub-Committee will deliberate in private with Legal Adviser and Clerk present. (Councillors new to Licensing may observe deliberations but will not take part in the decision making).
7. Notification of the decision will be given following deliberations at the conclusion of the hearing, to be followed by a written decision letter where possible within the period of five working days beginning with the day or the last day on which the hearing was held.
8. The Legal Adviser will advise parties of any right of appeal as appropriate at the conclusion of the Hearing. Information about the right of appeal as appropriate will also be included in the written decision letter.

Adopted by the Licensing Committee on 7.12.23

# 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(A)-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



# GUIDANCE TO COUNCILLORS AND OFFICERS APPOINTED TO OUTSIDE BODIES

## 1. Introduction

- 1.1. This guidance sets out the main issues which Councillors and Officers should consider when appointed by the Council to serve on outside bodies.
- 1.2. In the context of this guidance 'outside bodies' include trusts, companies, charities, school governing bodies, industrial and provident societies and community associations. Councillors or Officers may be involved as a director, trustee, governor or member (with or without voting powers).
- 1.3. Councillors and Officers who are involved in the management of outside bodies have responsibilities to that body that must be acted upon. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed. Failure to act in a proper manner may give rise to personal liability or liability for the Council.
- 1.4. With the increasing emphasis on partnership working, Councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Councillors and Officers always need to be clear about their roles and be alert to potential conflicts of interest in order to ensure transparency and public confidence in local democracy.
- 1.5. The purpose of this guidance is to assist Councillors and Officers in the discharge of their responsibilities on outside bodies clearly and effectively. It covers, primarily, the position of Councillors and Officers appointed by the Council to serve on outside bodies, though much of the advice applies equally to Councillors and Officers who are involved with outside bodies in a private capacity; in these situations, however, the Council's insurances will not apply.
- 1.6. This guidance is general and Councillors and Officers should contact the Monitoring Officer for further advice if they have any particular issues of concern.

## 2. Issues to consider before appointment

- 2.1. Before accepting an appointment to an outside body Councillors and Officers should check the following:
  - (a) The legal status of the organisation, e.g. company, trust, charity, unincorporated association;
  - (b) The capacity in which the Councillor or Officer is to be appointed, e.g., director, trustee,
  - (c) Whether the Councillor or Officer will have voting rights or observer status;
  - (d) The purpose of the organisation and how this relates to the Council's functions and objectives;

- (e) The relationship between the Council and the body and the likelihood and extent of any conflicts of interest;
  - (f) The requirements of the organisation's governing instrument, e.g. constitution; trust deed; memorandum and articles of association, both as a member and generally;
  - (g) The financial status of the organisation;
  - (h) Governance and decision-making arrangements, including the management of risk;
  - (i) Any code of conduct for members of the outside body;
  - (j) Any potential liabilities;
  - (k) Extent of any insurance cover for members of the outside body, especially the nature of Directors and Officers liability cover for appointment to the board of any company.
- 2.2. Having checked the above, Councillors and Officers should consider carefully whether they are willing to be appointed to participate formally in the management of the external organisation, e.g., as a director, trustee or voting member, or whether their role as a representative or Officer of the Council may be more effectively discharged as a non-voting member with observer status only. Bearing in mind the potential liabilities that may be incurred through formal involvement in an organisation, Councillors and Officers are generally advised to seek appointment as members with observer status only, unless there are exceptional reasons for more formal participation.
- 2.3. Councillors and Officers are encouraged to seek advice from the Monitoring Officer where any of the above issues are unclear.

### **3. Application of the Council's Code of Conduct for Members**

- 3.1. The Council's Code of Conduct for Members at PART 6 of the Constitution and the Council's Code of Conduct for Officers, place specific obligations on Councillors and Officers when acting in that capacity in their dealings with outside organisations. The Code will, in particular, apply where a Councillor or Officer is acting as a representative of the Council on an outside body.
- 3.2. Apart from the general duty to promote and support high standards of conduct, the following duties of the Code are particularly relevant in this context:
- (a) act solely in the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;
  - (b) Avoid placing yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
  - (c) Make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

- (d) Declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and take steps to resolve any conflicts in a way that protects the public interest;
  - (e) Comply with the statutory requirements on the registration and declaration of interests.
- 3.3. Councillors and Officers who have a direct or indirect disclosable pecuniary interest (Other Registrable Interests and / or Non-Registrable Interest) in any business at a meeting of the Council, e.g., award of a contract, must not participate in any discussion of the matter or, in the case of a Councillor, vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.
  - 3.4. Councillors and Officers who serve on more than one body, in particular, need to be mindful of potential conflicts of interest and always act in an open and transparent manner in carrying out their respective roles. For example, where a Councillor is at a council meeting considering an application for a grant or a community asset transfer request from a parish council or other public body of which they are a member, they should declare the existence and nature of their interest. Having done so, they may, generally, take part in the discussion of that item and vote, unless there are particular reasons why this would not be appropriate. It is also advisable as a matter of transparency, to include details of the interest in their register of interests.
  - 3.5. The same principle will generally apply where Councillors are appointed to serve as school governors, but it is always necessary to have regard to the nature and extent of any conflict of interest in deciding whether to participate or vote. Where the governing body is considering a matter which is likely to have a material effect on the Councillor or a member of their family, it would be advisable to declare an interest and take no further part in the proceedings.
  - 3.6. Councillors and Officers appointed to serve on outside bodies should be mindful of their legal obligations regarding disclosure of confidential information and in case of doubt should seek advice from the Monitoring Officer.

#### **4. Predetermination and Bias**

- 4.1. Aside from the Code of Conduct, under common law, Councillors must be careful to avoid any pre-determination or bias in their decision-making. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgement fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.
- 4.2. The Localism Act 2011 clarified the rules on predetermination. It makes it clear that a Councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A Councillor is not, for example, prevented from participating in discussion of an issue, or voting on it, if they have campaigned on the issue or made public statements about their approach to it.
- 4.3. The general position remains however, that, whatever their views, members must approach their decision-making with an open mind in the sense that they

must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

- 4.4. Councillors need to be aware that decisions may be challenged and set aside on the grounds of bias. Under common law, bias involves some element of partiality or personal interest in the outcome of a case, as a result of a close connection with the parties, or the subject matter of the dispute, or because of a tendency towards a particular shared point of view.
- 4.5. The relevant test for bias is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision-maker was biased. The risk of a successful challenge on these grounds may be overcome by proper observance of the requirements of the Code of Conduct and particularly the provisions set out above.

## **5. Legal status, capacity, duties and liabilities**

- 5.1. Where a Councillor or Officer is appointed to an external organisation by the council, the Councillor or Officer will be representing the interests of the Council. However, they will also have duties to the organisation. The extent of these duties will depend on the type of organisation and the nature of the position that the Councillor or Officer is appointed to.
- 5.2. If the Councillor or Officer is serving in a decision-making capacity, or has a position of management or control on the external organisation, they will owe duties to that organisation that are distinct and separate from their duties as Councillor or Officer.
- 5.3. In contrast, where the Councillor or Officer is appointed to an external organisation as an observer only and is not required to participate in the organisation's management or governance other than to attend and vote at annual or general meetings, it is likely that the Councillor or Officer will, for the most part, be acting as a representative of the Council and would not have the same duties in respect of the governance of the organisation referred to above.
- 5.4. The specific responsibilities of Councillors and Officers will depend upon the legal status of the outside body and the capacity in which they have been appointed. The position of Councillors and Officers in relation to various types of outside body, is summarised in the appendices to this note as follows:
  - Appendix A - Director of Limited Liability Company
  - Annex 1 – Summary - Cabinet, Shareholder Advisory Board and Shareholder Operations Board and Companies
  - Appendix B - Trustee of Trust or Charitable Trust
  - Appendix C - Member of Unincorporated Association
  - Appendix D - Member of Steering Group, Joint Committee or Partnership Body
- 5.5. The key point to note, is that where Councillors or Officers are carrying out their duties as a trustee, director, or management committee member, they may take

account of the wishes of the Council, but their primary duty is to act in the best interests of the organisation to which they have been appointed.

## **6. Liability, Insurance and Indemnity**

- 6.1. Councillors and Officers can incur personal civil and criminal liability from formal participation in outside bodies. However, under section 265 of the Public Health Act 1875 (as applied by Section 39, Local Government (Miscellaneous Provisions) Act 1976), Councillors and Officers enjoy statutory immunity from civil liability where they act within the powers of the authority, in good faith and without negligence.
- 6.2. This immunity does not apply however, where they act beyond the powers of the council or act in bad faith (i.e. with dishonest or malicious intent) or negligently, and it does not protect them from criminal liability, for example for fraud where they exercise managerial responsibilities.
- 6.3. BCP Council has a wide insurance provision to protect its assets and liabilities. Within these provisions the Council has extended its cover to protect its elected and co-opted members of outside bodies when carrying out duties in connection with the business of the Council. Those afforded the protection are:
  - (a) Elected Members of the Council or co-opted members of any Committee or Sub-Committee;
  - (b) Members of committees, schemes or associations formed to assist in the activities of the Council.
- 6.4. Further assistance on the issues covered in this guidance may be obtained from the Council's Monitoring Officer.

## **Duties and Responsibilities of a Director of Limited Liability Company (both Teckal and Non-Teckal)**

### **1. Directors Duties**

- 1.1. Directors owe a number of duties to their company, which are set out in the *Companies Act 2006*. These duties are to:
  - (a) Act within powers (*section 171*) - see paragraph 2 '*Acting within powers - Consequences of exceeding authority*'.
  - (b) Promote the success of the company (*section 172*).
  - (c) Exercise independent judgement (*section 173*) - see paragraph 3 '*Duty to act for the company and risk of local authority becoming a shadow director*'.
  - (d) Exercise reasonable skill, care and diligence (*section 174*) – see paragraph 4 '*Requirement for appropriate level of skill and expertise*'.
  - (e) Avoid conflicts of interest (*section 175*) – see paragraph 5 '*Avoid conflicts of interest – Council vs Company*'.
  - (f) Not accept benefits from third parties (*section 176*).
  - (g) Declare interest in a proposed transaction or arrangement with the company (*section 177*).
- 1.2. Councillors and Officers appointed as directors should be aware of these duties, particularly those which could lead to:
  - (a) A conflict with their role as a Councillor or Officer (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
  - (b) Personal liability for the debts of the company.

### **2. Acting within powers - Consequences of exceeding authority**

- 2.1. Directors must ensure that they act within the company's constitution (its memorandum and articles of association) and must only exercise these powers for their proper purpose. If a director acts outside of their powers a company can still be bound by the unlawful actions of their Officers / Directors (unlike statutory corporations, such as local authorities). Third parties acting in good faith can rely on decisions made by directors acting outside their authority, but the company may recover any resulting loss from the director personally.

### **3. Duty to act for the company and risk of local authority becoming a shadow director**

- 3.1. Councillors and Officers appointed to external corporations must ensure that they take decisions in accordance with their personal convictions; **they must not act on behalf of, or in promotion of, the local authority**. As a director,

the Councillor or Officer has a statutory duty to promote the success of the company and exercise independent judgement. If the Councillor is unable to do this without compromising their duty to the authority, they should resign their post. However, an Officer's duty to the authority is contractual, and so the authority can waive their contractual obligations if appropriate.

- 3.2. Furthermore, if the Councillor or Officer is a mere conduit for the local authority's viewpoint, the local authority risks being held to be a shadow director of the company. A shadow director is a person in accordance with whose directions or instructions the directors of a company are accustomed to act.
- 3.3. If the local authority is found to be a shadow director in an insolvency situation, it could be liable for the debts of the company where it knew, or ought to have concluded, that the company could not avoid insolvency but did not prevent it from continuing to trade (wrongful trading).

#### **4. Requirement for appropriate level of skill and expertise**

- 4.1. A director must exercise the care, skill and diligence which would be exercised by a reasonably diligent person with both:
  - (a) The general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company (the "objective" test).
  - (b) The general knowledge, skill and experience that the director actually has (the "subjective" test).
- 4.2. So, at a minimum, a director must display the knowledge, skill and experience set out in the objective test, but where a director has specialist knowledge, they must meet the higher subjective standard. Therefore, a Councillor or Officer should consider, along with the appointing local authority, whether they have the skills necessary to run a company; it is not enough that an individual has the time and enthusiasm. In addition, individuals with specialist skills will be expected to apply those skills to their role as director.

#### Liabilities arising from insolvency of company or association

- 4.3. The need to have the necessary expertise to manage the company's finances is particularly important if the company is struggling financially. A director who does not scrutinise and understand the company's accounts risks incurring personal liability to the company's creditors for wrongful trading under section 214 or Section 246ZB of the Insolvency Act 1986 if they continue to trade when they knew, or ought to have concluded, that there was no reasonable prospect that the company would avoid becoming insolvent.
- 4.4. It is important to recognise that liability arises whether or not the director understood the company's financial position or intended any harm; if they should have known the company could not avoid insolvency, they were obliged to take every step to minimise its creditors' losses.



## **5. Avoid conflicts of interest – Council vs Company**

- 5.1. A Councillor or Officer appointed as a director to a company will owe specific duties to the company in that capacity under both statute and common law. Councillors and Officers are under a duty to exercise independent judgement when they are making decisions on behalf of the council. However, as a director of an external organisation they will also have a duty to exercise independent judgement and to act in the best interests of the company to which they are appointed.
- 5.2. This means that if the Councillor or Officer finds themselves in a situation where the interests of the council arise, the Councillor or Officer must disclose that interest. If they simply act or vote in line with the Council's position, the Councillor or Officer would not be acting in the best interests of the company and would be in breach of their duties as a director and could incur personal liability for their actions. Where a potential or actual conflict of interest arises, the Councillor or Officer may have to resign from either the company or the council.
- 5.3. A summary regarding potential conflicts of interest for Councillors and Officers who are members of the Shareholder Advisory Board and the Shareholder Operations Board is set out in Annex 1 (Summary - Cabinet, Shareholder Advisory Board and Shareholder Operations Board and Companies) to this Protocol.

## **6. Other responsibilities**

- 6.1. Directors must also be aware of how acts and decisions of other individuals may bind the company, for example:
  - (a) Company directors may have powers delegated to them by the company, but they also have ostensible authority to act on behalf of the company, and their actions will bind that company, so that a third party dealing in good faith with a company's director may rely on the actions of that director even if they were not actually authorised by the company.
  - (b) Employers have vicarious liability for the tortious acts of employees carried out in the course of their employment. This can include discrimination against one employee at the hands of another, as well as breaches of health and safety.



## **Summary - Cabinet, Shareholder Advisory Board and Shareholder Operations Board and Companies**

### **1. General**

- 1.1. The shareholder of a company owned by the Council is always BCP Council, not the members of the Cabinet or the Shareholder ADVISORY BOARD or the Shareholder Operations Board themselves, or any Council Directors appointed to represent the Council on the boards of these companies.

### **2. Cabinet**

#### **2.1. Purpose in relation to companies:**

- 2.1.1 The Cabinet will make decisions in relation to a company of which the Council is a Shareholder in accordance with the governance arrangements for the Shareholder Advisory Board and the Shareholder Operations Board.

- 2.1.2 These are decisions that involve:

- (a) changes to company governance e.g. including amending a company's articles of association, or its shareholder agreement;
- (b) agreements to any amalgamation, merger, joint venture, profit sharing or similar arrangements; and
- (c) approving steps to wind up a company.

#### **2.2. Conflicts:**

- 2.2.1 A member of the Cabinet could also be a director of a company. However, in the context of the Council being a shareholder of various companies and members of the Cabinet also being Directors of various companies there is potential for conflicts to arise. So as to avoid a position of conflict, BCP Councillors will not be appointed as a director of any council company
- 2.2.2 Councillors who have a direct or indirect disclosable pecuniary interest (Other Registerable Interest and / or Non-Registerable Interest) in any business at a meeting of the Council, e.g. award of a contract, must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.

### **3. Shareholder Advisory Board and Shareholder Operations Board**

#### **3.1. Purpose:**

- 3.1.1 The Shareholder Advisory Board and the Shareholder Operations Board has been established by the Cabinet specifically to support the

Cabinet in its discharge of the shareholder functions of the Council in relation to those companies of which the Council is a shareholder. The Shareholder Advisory Board does not have day-to-day operational control over any of the companies of which the Council is a shareholder.

### **3.2. Conflicts:**

- 3.2.1 In law, a shareholder of a company can also be a director of a company – this is often the case in small family-run companies. However, in the context of the Council being a shareholder of various companies and members of the Shareholder Advisory Board and the Shareholder Operations Board also being Directors of various companies there is potential for conflicts to arise.
- 3.2.2 Officers and Councillors who have a direct or indirect (Other Registerable Interest and /or Non-Registerable Interest) disclosable pecuniary interest in any business at a meeting of the Council, e.g. award of a contract, must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.

## **4. Director**

### **4.1. Purpose:**

- 4.1.1 An Officer or Councillor who is appointed as a director of a company will be involved in all decisions regarding the day-to-day operation of that company. Directors owe a number of duties to their company which are set out in the Companies Act 2006:
  - (a) Act within powers
  - (b) Promote the success of the company
  - (c) Exercise independent judgement
  - (d) Exercise reasonable skill, care and diligence
  - (e) Avoid conflicts of interest
  - (f) Not accept benefits from third parties
  - (g) Declare interest in a proposed transaction or arrangement with the company

### **4.2. Conflicts:**

- 4.2.1 Council decision making Where a member of Shareholder Advisory Board and or the Shareholder Operations Board and or the Cabinet is also a director of a company and the Cabinet via recommendation of the Shareholder Advisory Board is being asked to make a decision in relation to that company, e.g. award of a contract, the Councillor and or Officer should declare a direct or indirect disclosable pecuniary interest

(Other Registerable Interest and or Non-Registerable Interest) and must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution. This applies to both Councillors and Officers.

- 4.2.2 Company decision making Conversely if the director of a company finds themselves in a situation in relation to the company where the interests of the Council arise, they must disclose that interest. The director of the company has a duty to exercise independent judgement and to act in the best interests of the company to which they are appointed. If they simply act or vote in line with the council's position, they would not be acting in the best interests of the company and would be in breach of their duties as a director and could incur personal liability for their actions.

## **5. Simple checklist**

If in doubt, consider the following questions:

1. Are you a member of the Cabinet and / or the Shareholder Advisory Board and / or the Shareholder Operations Board ?
2. Are you a director of the company in relation to which the Cabinet and / or the Shareholder Advisory Board and / or Operations Board is being asked to make a decision?

If the answer is 'yes' to both a potential conflict could arise and the member should declare this and not participate in any discussion of the matter or vote on it.

## **Duties and Responsibilities of a Trustee of Trust or Charitable Trust**

Additional duties and responsibilities placed upon Trustees include making sure that the body acts in accordance with the overriding duty to all beneficiaries of the Trust. Beneficiaries may be people within BCP Council or a specific category of persons for whose benefit the Trust was originally established. The Trustee Act 2000 contains most of the duties upon the Trustees; the Act also includes a statutory duty of care which applies when a Trustee is:

- Exercising a general power of investment or any specific power of investment arising from the Trust;
- Making investments arising in line with the Standard Investment Criteria under Section 4 of the Act or taking independent advice on investments under Section 5;
- Exercising the power to acquire land or deal in land;
- Appointing agents, custodians or nominees or in reviewing their obligations;
- Compounding liabilities under Section 15 of the Trustee Act 1925;
- Insuring Trust property;
- Dealing with reversionary interests, valuations or audits.

The standard of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual, e.g. the standard of care will be higher for someone with an accounting qualification in relation to financial matters than someone without such a qualification.

Duties and responsibilities applicable to charities are even more extensive, as charitable Trustees have additional responsibilities under the Charities Acts.

Information on this can be found on the Charity Commission website, or by using the attached link:

<https://www.gov.uk/guidance/charity-commission-guidance>.

In many cases the Charity Commission needs to be consulted before a charity takes action or decides on a particular course of action involving charity property.

## **Duties and Responsibilities of a Member of Unincorporated Association**

Unincorporated associations and partnerships are not separate legal entities which means that the individuals who are represented on the management committee are personally liable for all acts and omissions of the body. Each of the individuals are jointly and individually liable for what the organisation does. Partnerships and voluntary organisations often have this legal status, however, such associations and partnerships should still have a written constitution setting out the procedural rules which need to be followed and governing how it operates.

An unincorporated association may be charitable and may register as a charity, if this is the case then the duties and responsibilities set out in Appendix B must be considered.

## **Duties and Responsibilities of a Member of Steering Group, Joint Committee or Partnership Body**

The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions, which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities and a Councillor may be appointed to such a joint committee. A Member of the Executive may not be a Member of any joint committee established to carry out the Council's scrutiny functions.

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

The council may delegate non-Executive functions to another local authority, or in certain circumstances, the Executive of another local authority. The decision whether or not to accept such a delegation from another local authority shall be reserved to the meeting of Full Council.

The Access to Information rules in Part 5A of the Local Government Act 1972 will apply to joint committees established under this Appendix.

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# PART 7

## MEMBERS' ALLOWANCES

### SCHEME

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## **Scheme of Members' Allowances – 2024/2025**

Bournemouth, Christchurch and Poole Council in exercise of the powers conferred by the Local Authorities' (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

- a. This scheme may be cited as the Bournemouth, Christchurch and Poole Council Members' Allowances Scheme and shall have effect from 7 May 2024.
- b. In this scheme "Councillor" means a member of the Bournemouth, Christchurch and Poole Council who is a Councillor.

### **1. Basic Allowance**

- 1.1. A Basic Allowance of £15,109 shall be paid to each Councillor.
- 1.2. The Basic and Special Responsibility Allowances has been adjusted by 4.5% (an amount equivalent to any officers' pay award for 2024/25 in line with the Employees' National Salary Award) and was applied retrospectively to 7 May 2024 in accordance with the Council's decision.
- 1.3. The Basic Allowance is intended to recognise the time devoted by Councillors to their work, including their community representative role, and to cover some incidental expenses incurred by them encompassing;
  - (a) the community representative role that all Members undertake that includes
    - representing constituents' views at meetings of the Council and, as appropriate, on other organisations;
    - ensuring that individual problems which have not been dealt with by the normal procedure are dealt with satisfactorily;
    - holding community meetings and consultations;
    - dealing with correspondence and obtaining information;
    - meeting with officers to make them aware of local concerns;
    - acting as the representative on another body, requiring briefing and reporting back to Council;
  - (b) attendance at and preparation for committee meetings;
  - (c) travel time and time spent representing the Council on outside bodies;
  - (d) the use of the home as an office including internet, telephone and postage costs and the purchase of stationary and related items; and
  - (e) some subsistence costs.

### **2. Special Responsibility**

- 2.1. A Special Responsibility Allowance shall be paid to those Councillors (in addition to the Basic Allowance) who hold the special responsibilities; this is in recognition of

the additional workload and levels of responsibility and accountability placed upon members appointed to these roles:

Leader	£32,730
Cabinet Members (including Deputy Leader)	£21,820
Lead Members	£12,087
Chair of the Council	£12,087
Vice-Chair of the Council	£6,045
Chair of Audit & Governance Committee	£12,087
Chairs of Area Planning Committees	£9,065
Chair of Overview & Scrutiny Board	£9,065
Chair of Environment and Place Overview & Scrutiny Committee	£9,065
Chair of Children's Services Overview & Scrutiny Committee	£9,065
Chair of Health & Adult Social Care Overview & Scrutiny Committee	£9,065
Chair of Licensing Committee	£12,087
Vice-Chair of Licensing Committee	£3,023
Chair of Appeals Committee	£3,628
Chair of Standards Committee	£3,628
Group Leaders*	£3,628

(\***NOTE**: minority parties must have a membership of no fewer than 5 for their Leader to receive an SRA)

- 2.2. Councillors shall be restricted to claiming only one Special Responsibility Allowance (and may elect which SRA to receive) with the exception that a Group Leader's SRA can be payable as a second SRA.
- 2.3. Subject to paragraph 2.4 below, no Special Responsibility Allowance shall be paid to vice-chair of committees (with the exception of the vice-chair of Council and the Licensing Committee).
- 2.4. Where the relevant chair is permanently unavailable to perform their duties, the entitlement to a special responsibility allowance shall transfer to the elected vice-chair.

### **3. Travel allowances**

- 3.1. Councillors and appointed members are entitled to claim travel allowances in line with MAP (HMRC approved Mileage Allowance Payments) for undertaking official business and travelling to the BCP Council offices for meetings and official business.
- 3.2. The MAP approved amounts are currently:
  - (a) Car – 45p per mile up to 10,000 miles and 25p per mile thereafter;

- (b) Passenger payments – up to 5p per mile per passenger (up to a maximum of four) to be claimed only for passengers who would otherwise be eligible for travelling allowance;
- (c) Motorcycle – 24p per mile;
- (d) Bicycle – 20p per mile;
- (e) In relation to public transport (including rail and bus) – standard fare; and
- (f) Parking fees – actual cost

#### **4. Subsistence allowances**

- 4.1. Subsistence allowances include the cost of:
  - (a) Accommodation (if a member needs to stay overnight); and
  - (b) Meals and other 'subsistence' while travelling.
- 4.2. Subsistence allowances are only claimable for undertaking official business outside of the unitary council area.
- 4.3. Subsistence allowances are made towards meals up to a maximum limit set out below and must be accompanied by a receipt.
  - (a) In the case of an absence not involving an absence overnight from the usual place of residence:-
 

(i) Breakfast (more than 4 hours away before 11am)	£7.14
(ii) Lunch (more than 4 hours including 12 noon to 2pm)	£10.72
(iii) Tea (more than 4 hours including 3pm to 6pm)	£5.35
(iv) Evening Meal (more than 4 hours away ending after 7pm)	£14.29

#### **5. Carers' allowance**

- 5.1. Dependent carers' allowance to be paid to recompense the actual cost expended (and is not payable to a member of the claimant's own household):
  - (a) for care of dependents, whether children, elderly people or people with disabilities;
  - (b) for such time as a member is on BCP Council business where travelling allowances are payable;
  - (c) at an hourly rate equivalent to 110% of the minimum wage, rounded up to the nearest whole pound, i.e. actual expenditure incurred subject to a maximum of £9\* per hour.

(\*As at April 2019)

#### **6. Co-opted and Independent Members' allowance**

- 6.1. An allowance of £1,211 per annum to be paid to:
  - (a) the co-opted members of the scrutiny committee with oversight of education matters; and
  - (b) the independent persons appointed to contribute to the arrangements of promoting and maintaining high standards of conduct.

## **7. Foregoing and suspension of allowances**

- 7.1. A Councillor may by notice in writing given to the Monitoring Officer elect to forego all or any part of their entitlement to an allowance.
- 7.2. Where a Councillor is suspended or partially suspended from his or her duties as a councillor in accordance with Part III of the Local Government Act 2000, or regulations made under Part:
- (a) the part of the basic allowance payable to them in respect of the period for which they are suspended or partially suspended shall be withheld;
  - (b) the part of the SRA payable to them in respect of the period for which they are suspended or partially suspended shall be withheld; and
  - (c) the part of the travelling and subsistence allowance payable to them in respect of the period for which they are suspended or partially suspended shall be withheld.
- 7.3. Where payment of any allowance has already been made in respect of any period during which the member concerned is:
- (a) suspended or partially suspended from their responsibilities or duties as a councillor in accordance with Part III of the Local Government Act 2000 or regulations made under that Part;
  - (b) ceases to be a member of BCP Council or;
  - (c) is any other way not entitled to receive the allowance in respect of a relevant period

the authority may require that such part of the allowance as related to any such period be repaid to the authority.

## **8. Salary Sacrifice**

- 8.1. HMRC's view is that the same tax rules apply to elected members who hold office as a local councillor as they do for employees. Councillors are therefore permitted to give up part of their Basic Allowance and/or Special Responsibility Allowance in exchange for certain salary sacrifice schemes available at BCP Council.
- 8.2. Provided Councillors satisfy the various qualifying conditions, they may be entitled to access some of the various salary sacrifice schemes offered by BCP Council. Not all schemes will be available for Councillors to participate in.
- 8.3. In order to access salary sacrifice schemes, Councillors will be required to meet qualifying and affordability criteria in line with legislation and detailed by BCP Council. These criteria may be subject to change without notice.
- 8.4. Applications made by Councillors will be considered on a case-by-case basis, and BCP Council retains full authority in deciding whether to accept any requests.
- 8.5. In the event a Councillor is approved for any salary sacrifice scheme, this is strictly on condition that if they later leave their role as a Councillor, they will reimburse BCP Council any and all outstanding payments or early termination charges incurred in connection with their particular salary sacrifice scheme benefit. This includes authorising BCP Council to deduct any outstanding amounts from the

Councillor's Basic and/or Special Responsibility Allowance before paying them the balance.

## **9. Part-Year Entitlements**

9.1. The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances where, in the course of the year, this Scheme is amended or that Councillor becomes, or ceases to be, a Councillor or accepts or relinquishes a Special Responsibility in respect of which a Special Responsibility Allowance is payable.

9.2. If an amendment to this Scheme changes the amount to which a Councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance, then in relation to each of the periods:-

(a) beginning with the year and ending with the day before that on which the first amendment takes effect; or

(b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect;

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

9.3. Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.

9.4. Where this Scheme is amended as mentioned in sub-paragraph 9.2 above, and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph 9.2(a) above, the entitlement of any such Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days which his or her term of office as a Councillor subsists bears to the number of days in that period.

9.5. Where a Councillor has during part of, but not throughout, a year special responsibilities as entitle them to a Special Responsibility Allowance, that Councillor's entitlement shall be to the payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.

9.6. Where this Scheme is amended as mentioned in sub-paragraph 9.2 above, and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 9.2(a) of that paragraph any such special responsibilities as entitle them to a Special Responsibility Allowance, that Councillor's entitlement shall be to the payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.

## **10. Pension Payments**

- 10.1. There is no provision of any pension for Members within the allowances scheme.

## **11. Payments**

- 11.1. Payments shall be made in respect of basic, co-optees' and special responsibility allowances in instalments of one-twelfth of the amount specified in this scheme on the 28<sup>th</sup> of each month.
- 11.2. Where a payment of one-twelfth of the amount specified in this scheme in respect of basic allowance or special responsibility allowance would result in a Councillor receiving more than the amount to which, by virtue of paragraph 8, they are entitled, the payment shall be restricted to such amount as will ensure that no more than the amount to which they are entitled.

## **12. Making a Claim**

- 12.1. Claims for the payment of childcare and dependent carers' allowance and travelling and subsistence allowances under this scheme must be made using the electronic expenses system within two months of the date on which the duty is carried out. *Claims received outside this timescale will only be paid in the case of exceptional circumstances.*
- 12.2. Claims for the payment of a childcare and dependent carers' allowance must be supported by the production of an official receipt relating to the expenditure incurred by the Councillor or appointed member for the provision of these services.

## **13. List of Approved Duties**

- (a) Attendance at a meeting of the authority or as a member of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations or any committee or sub-committee of such a body;
- (b) Attendance at any meeting in (a) above where invited to attend and speak by the Chair of the Committee, or Sub-Committee of Body or when presenting a report to Committees as Chair of a Sub-Committee as defined in Council Procedure Rules;
- (c) A Member who is not a member of the Cabinet may attend a meeting of the Cabinet and shall be entitled to claim travelling and dependent care allowances as applicable for such attendance, which will be regarded as an approved duty;
- (d) Attendance at a meeting of any association of authorities of which the authority is a member;
- (e) Attendance at training courses;
- (f) Attendance at seminars or briefing to which all Members of the Council have been invited;
- (g) Duties undertaken in connection with the appointment of employees;
- (h) Site tours or tours to which all Members of the Council, the Cabinet, a Committee or Sub-Committee have been invited;

- (i) Any meeting involving either Chairs or Vice-Chairs called by the Chief Executive including briefings for Cabinet, Committees and Sub-Committees;
- (j) Attendance by any individual Members or group of Members at a meeting called or authorised by the Chief Executive or members of the Management Team to ensure that travelling and subsistence allowances are only payable for approved duties.



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