

# PART 3

## RESPONSIBILITY FOR FUNCTIONS

## Introduction

This Part 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 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 to be approved by Full Council including the following:
  - Annual Library Plan
  - Children and Young People's Plan
  - Crime and Disorder Reduction Strategy
  - Development Plan Documents
  - Licensing Authority Policy Statements
  - Local Transport Plan
  - Youth Justice Plan
  - Housing Strategy
- 1.2. The approval or adoption of the Budget. For the purposes of this Constitution, "Budgetary Framework" shall, unless the context expressly requires otherwise, mean:
  - (a) The Revenue Budget
  - (b) The Capital Programme
  - (c) Capital Strategy
  - (d) Medium Term Financial Plan
  - (e) To the extent that it is not covered by (a) – (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.

- 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:
  - (a) 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
  - (b) 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
- 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:
  - (a) Determine the size and allocation of seats to political groups in accordance with the political balance rules
  - (b) Receive nominations of Councillors to serve on each Committee and appoint to those Committees
  - (c) 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 the following:
  - (a) Chairman of the Council
  - (b) Vice-Chairman of the Council
  - (c) 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. Authorising appointments to the Dorset and Wiltshire Fire Authority and Dorset Police and Crime Panel.
- 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 bye-laws and promoting and opposing the making of local legislation and personal bills in Parliament.
- 1.17. Any other function which, by law, must be reserved to the Full Council.

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

## 2. Planning Committee

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the Planning Committee.
- 2.2. The Planning Committee has responsibility to determine the following:
- (a) 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
  - (b) Applications submitted by or on behalf of a current Officer
    - (i) working within the planning section; or
    - (ii) at Tier 3 level and above; or
    - (iii) direct family (spouse or civil partner) of Officers identified under (i) and (ii)for any property or land in which they have a financial interest
  - (c) Applications referred to the Committee by the relevant senior planning officer for one or more of the following reasons:
    - (i) Applications where there are material planning issues that have not previously been considered within the Council's area
    - (ii) Applications where a national or local planning policy is being tested for the first time within the Council's area
    - (iii) Applications which have a significant impact on a wide number of businesses and / or people
    - (iv) Applications which have a finely balanced Officer recommendation
    - (v) Applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils
    - (vi) Applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest
  - (d) Applications where the Council is the applicant or land owner for major development proposals as defined in the Development Management Procedures Order
  - (e) Significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State
  - (f) 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

- (g) An Application which a Councillor requests should be referred to the Planning Committee provided that all of the following criteria are met:
- (i) The application is potentially contentious and raises material planning issues that affect their ward or would affect the wider public interest
  - (ii) The Councillor has submitted the referral to planning committee request in accordance with the local planning authority's agreed protocol (as set out in Appendix 1 to this Part).
  - (iii) The Application is not one of the following:
    - Permission in Principle (PiPs)
    - Lawful Development Certificates (LDC) (existing or proposed)
    - Prior Approvals and Prior Notifications
    - Non-material amendments
    - Applications other than "major", "minor" and "householder"
- (h) Applications where there have been 20 or more representations received within the initial or any subsequent notification period, based on material planning issues, from separate addresses that are contrary to the recommendation of the planning officer. The Head of Planning has the authority to make the decision as to whether the contrary representations are based on material planning issues.

NOTE: with reference to 2.2(g) above, Councillor call in powers, a Councillor may make a request that an application be considered by Planning Committee conditional upon a recommendation to grant or refuse, or may make an unconditional request. A Councillor may also withdraw a request at any time up to seven calendar days before publication of the relevant Committee agenda. Any request should be made in writing on the form provided for the purpose.

### **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:
  - (a) 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
  - (b) Making decisions in connection with statutory commercial public safety licensing of a type that may require quasi-judicial process or intervention – e.g. alcohol, entertainment, gambling, sexual entertainment venues, street trading, charitable collections and public carriages
  - (c) 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
  - (d) 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-
    - (i) 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
    - (ii) 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
    - (iii) Decisions on applications made by the Police under the Licensing Act 2003 for expedited reviews of Premises Licences and/or Club Premises Certificates
    - (iv) 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
    - (v) 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

- (vi) Decisions on applications made under the Licensing Act 2003 for a Provisional Statement where representations have been made and not withdrawn
- (vii) Decisions on applications for a Temporary Event Notice made under the Licensing Act 2003 where Police or Environmental Health representations have been made
- (viii) Decisions on Public Carriage licensing matters which fall outside of existing policies
- (ix) Decisions on Public Carriage disciplinary matters
- (x) Decisions on applications made under the Gambling Act 2005 where representations have been received and not withdrawn for the following:
  - Applications for new Premises Licences
  - Applications for Variation of a Premises Licence
  - Applications for a Provisional Statement
  - Applications for other permits
- (xi) Decisions on applications for transfer of a Premises Licence made under the Gambling Act 2005 where representations have been received from the Gambling Commission
- (xii) Decisions on applications made under the Gambling Act 2005 for:
  - Cancellation of Club Gaming/Club Machine Permits
  - Cancellation of Licensed Premises Gaming Machine Permits
  - A decision to give a Counter Notice to a Temporary Use Notice
- (xiii) Making decisions in matters under the Licensing Act 2003 where there are unresolved Police representations relating to applications:
  - To vary the Designated Personal Licence Holder
  - For the transfer of a Premises Licence
  - For Interim Authorities
- (xiv) Making decisions on all applications relating to premises or land operated by the Council where relevant representations are received
- (xv) Making decisions on applications to review Premises Licences made under the Gambling Act 2005
- (xvi) Making decisions on applications relating to Street Trading which fall outside of existing policies
- (xvii) Making decisions on Public Carriage disciplinary matters that may result in the revocation or suspension of a Taxi Operators Licence
- (xviii) Making decisions on applications for new Sex Establishment and Sexual Entertainment Licences
- (xix) Making decisions on applications for renewals of Sex Establishment and Sexual Entertainment Licences where representations have been received and not withdrawn

- (xx) Making any decisions required to be made within the following legislative frameworks which have not been delegated by the Committee to Officers:
  - Caravan Site Act 1968 and Mobile Home Act 2013 and related legislation
  - Charities Act 1992 and related legislation
  - Street Trading Permits and Table and Chair permissions and related permissions
  - Animal Welfare Licensing – where there are objections to licences
  
- (e) Approving the level of fees charged by the Council
  
- (f) Making decisions on the tariffs charged by the Public Carriage Trade

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

### **Overview and Scrutiny Board**

- 4.1. For the avoidance of doubt, any responsibility relating to an Overview and Scrutiny Committee in 4.2 below may also relate to the Overview and Scrutiny Board.
- 4.2. The Overview and Scrutiny Board has responsibility for:
- (a) Discharging the statutory duties for which the Overview and Scrutiny function is responsible, other than those that relate to Health, Adult Social Care and Children's Services
  - (b) Overseeing the Council's overall Overview and Scrutiny function including the preparation, implementation, monitoring and review of a work programme for Overview and Scrutiny
  - (c) Keeping the Overview and Scrutiny function under review, suggesting changes as appropriate to ensure that it remains fit for purpose
  - (d) Considering decisions that have been called-in pursuant to the Procedures set out in this Constitution for further scrutiny
  - (e) 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
  - (f) Maintaining oversight and establishing priorities for the training needs of the whole Overview and Scrutiny function
  - (g) Establishing such commissioned work as appropriate after taking into account the availability of resources, the work programme and the matter under review
  - (h) Scrutinising decisions of the Cabinet, offering advice or making recommendations on the matter
  - (i) Referring to Full Council, the Cabinet or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Overview and Scrutiny Board/Committee determines should be brought to the attention of the Council, Cabinet or the Committee or Sub-Committee
  - (j) Offering any views or advice to the Cabinet in relation to any matter referred to the Overview and Scrutiny Committee for consideration by the Cabinet
  - (k) Assisting the Council in the development of the Budget and Policy Framework by in-depth analysis of policy issues

- (l) 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
- (m) Monitoring the implementation of decisions to examine their effect and outcomes

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

- 4.3. The Health and Adult Social Care Overview and Scrutiny Committee will carry out those duties as outlined in 4.2 (g)-(m) above, in relation to matters regarding health, adult social care, public health, community care and any other issues relating to the delivery of health services by health service providers and NHS bodies affecting the residents of Bournemouth, Christchurch and Poole.
- 4.4. This Committee carries out all the Council's overview and scrutiny functions relating to health as required by legislation.

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

- 4.5. The Children's Services Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2 (g)-(m) above, in relation to matters which relate to the delivery of services for children in Bournemouth, Christchurch and Poole.
- 4.6. Education co-optees will be appointed to this Committee in line with legislation, as set out in this Constitution.

## **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. Our Audit & Governance Committee is a key component of Bournemouth, Christchurch & 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.
- 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 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**

- 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:-
- (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 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:-
- (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.
- 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).
- 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:

- (a) 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
- (b) Promoting and maintaining the Council's responsibilities for ethical governance and high standards of conduct
- (c) Ensuring that appropriate advice and training is provided to Councillors in respect of ethical governance and the Code of Conduct
- (d) Supporting the Monitoring Officer in discharging their duties in regard to the conduct and behaviour of Councillors
- (e) Promoting the observance of the ethical governance agenda within Parish and Town Councils in its area
- (f) Considering the outcome of investigations undertaken pursuant to the arrangements for dealing with allegations of a breach of the Code of Conduct
- (g) 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
- (h) Considering an Annual Report on Gifts and Hospitality Registers relating to Councillors

## **7. Appeals Committee**

7.1. The Appeals Committee will have responsibility for:

- (a) Determining personnel-related appeals in respect of decisions made which result in a dismissal
- (b) Determining appeals by parents and students against the Council's decision in relation to student awards
- (c) Determining appeals by parents against the Council's decision on boarding education matters and other pupil benefits
- (d) Determining appeals by parents against the Council's decision in relation to the provision of transport in cases of need, special circumstance or safety
- (e) Determining appeals against the Council's decision on the provision of transport to denominational schools and colleges
- (f) The Appeals Committee will have responsibility for determining appeals relating to disciplinary action against, and in respect of, the relevant Statutory Officers

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

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

- 8.1. The Investigation and Disciplinary Committee will have responsibility for disciplinary and dismissal matters which relate to the relevant statutory officers. The relevant officers being the Head of Paid Service; Chief Finance Officer and Monitoring Officer. The IDC to 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.
- 8.2. The IDC to be a Committee consisting of six councillors and must include the Leader of the Council and another member of the Cabinet.
- 8.3. That in the case of a complaint against a relevant officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to the Monitoring Officer or Chief Finance Officer in the case of a complaint against the Head of Paid Service, and delegated to the Head of Paid Service in the case of a complaint against the Monitoring Officer or the Chief Finance Officer. This decision to be made in consultation in every case with the Head of Human Resources and Organisational Development.
- 8.4. That the Investigating and Disciplinary Committee (IDC) will have delegated responsibility for the suspension of the relevant officers. In the event of the need for urgency, this function to be delegated to the Chair of the IDC.
- 8.5. That the relevant officers will be given the same right to be accompanied at any disciplinary hearing as all BCP Council employees. Additionally, this will include the right to be accompanied by a legal representative at their own cost.

### **Independent Panel**

- 8.6. 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).

## **Leader and Cabinet – Executive Functions**

### **9. Discharge of Executive Functions**

- 9.1. 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:-
- (a) The Cabinet
  - (b) A member of the Cabinet
  - (c) A Committee of the Cabinet
  - (d) An Officer
  - (e) Another Council
  - (f) Another organisation under joint arrangements

### **10. Functions of the Cabinet**

- 10.1. 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:
- (a) Responsibility for strategic and policy co-ordination
  - (b) 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
  - (c) Carrying out the Council's responsibilities for improving the economic social and environmental well-being of the area
  - (d) 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
  - (e) 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
  - (f) Monitoring spending on the Capital Programme
  - (g) 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

- (h) Considering and responding to recommendations and reports from Overview and Scrutiny Board and Committees
- (i) Considering the reports of external review bodies on key aspects of overall service delivery
- (j) Deciding all Local Choice Functions which Full Council has decided should be undertaken by the Cabinet
- (k) 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
- (l) Resolving disputes between Cabinet Members including those where there is no agreement between Portfolio Holders relating to cross-portfolio issues
- (m) 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
- (n) Making the final decision on joint arrangements and delegations to other councils which relate to Executive Functions
- (o) 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:

- (a) Lead on implementing the Council's policy and budget decisions
- (b) Provide leadership of the Council by setting the strategic direction and key priorities, overseeing the development of the financial strategies
- (c) Represent the Council in the community and in negotiations with regional and national organisations
- (d) In the absence of a Portfolio Holder take responsibility for all relevant matters within the remit of the Cabinet
- (e) Appoint a Deputy Leader
- (f) Appoint up to 9 Councillors to be Members of the Cabinet
- (g) Allocate to each Member of the Cabinet areas of responsibility to be known as Portfolios

- (h) Notify the Monitoring Officer of the allocation of responsibility so that the information can be compiled in the Cabinet Members' Portfolio Scheme
- (i) Provide leadership to the Cabinet and chair Cabinet meetings
- (j) 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
- (k) Exercise 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)
- (l) 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. The Deputy Leader will perform the following function in addition to Portfolio responsibilities:

- (a) 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:

- (a) To make decisions consistent with the Council's Key Policy Framework
- (b) To make decisions within approved budgets or within virement discretion in accordance with the Financial Regulations
- (c) To make decisions which do not compromise any existing or proposed policy
- (d) 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'
- (e) 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
- (f) To give public account of the functions and decisions made within the Portfolio areas of responsibility

- (g) To maintain clear communication with the Chairmen of the relevant Overview and Scrutiny Board and Committees
- (h) 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
- (i) 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
- (j) To set clear priorities which are consistent with the Council's policies and strategic objectives
- (k) To ensure that resources are efficiently managed within allocations set by Council and that risk is well managed
- (l) Specific projects as agreed with the Leader of the Council
- (m) 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
- (n) 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.

11.4. 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.

## **12. CABINET PORTFOLIO SCHEME**

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

## **13. LEADER DELEGATION TO CHIEF EXECUTIVE**

13.1. 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.

## **Scheme of Delegation to Officers**

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

### **14. Introduction**

- 14.1. References in this Scheme to "the Chief Executive and Directors" are references to the Chief Executive, the Directors, Monitoring Officer and Section 151 Officer unless specifically stated otherwise.
- 14.2. Except in cases of urgency this Scheme does not authorise delegation of any power to make decisions or responsibility which may not in law be delegated to an Officer or which has been specifically reserved for decision to:
- (a) Full Council
  - (b) The Leader
  - (c) Cabinet
  - (d) A Cabinet Member
  - (e) A Council Board or Committee
  - (f) A specific Statutory Officer
- 14.3. The Chief Executive, Directors, Monitoring Officer and Section 151 Officer will remain responsible for the decisions made by them under this Scheme or the Chief Executive's Scheme of Delegation and decisions made by anyone to whom they delegate their power.

### **15. Urgency**

- 15.1. Where urgent action is necessary to protect the Council's interests or enable it to undertake its statutory duties, then, after consultation with the Leader of the Council, or in their absence the Deputy Leader of the Council and the Monitoring Officer and Section 151 Officer, the Chief Executive may authorise action and incur expenditure.
- 15.2. Any action taken in this way shall be reported to the next meeting of Cabinet and Full Council.

### **16. Recording Decisions**

- 16.1. All Officer decisions taken under this Scheme must be taken in accordance with the decision-making principles and procedures contained within this Constitution.

## **17. The Decision-making Process**

- 17.1. Before taking any decision under delegated powers an Officer will notify the relevant Cabinet Member of any action which is likely to be contentious or politically sensitive.
- 17.2. When exercising delegated powers an Officer will consult with Officers in other service areas where the decision is likely to have an impact on that service area.
- 17.3. Officers making decisions must be satisfied that as early as possible in the decision-making process the following issues are considered:
  - (a) The principles of decision-making contained in Article 12
  - (b) The Council Procedure Rules and Financial Regulations
  - (c) The views of the relevant Cabinet Members, Chairs of relevant Committees, and where the matter relates to a specific area, Ward Councillors
  - (d) The involvement of relevant Statutory Officers and other Directors
  - (e) Any risks in accordance with the Council's Risk Management Strategy
  - (f) The staffing, legal and financial implications including the need to secure value for money

## **18. General Delegations to the Chief Executive, Directors and Officers**

- 18.1. The Chief Executive has authority to exercise all powers delegated to that post by the Leader as contained in the Leader's Scheme of Delegation and may make all operational decisions in accordance with the Council's Budget and Key Policy Framework.
- 18.2. In the event of any doubt as to the delegated powers of any Director the Chief Executive shall have the authority to determine which Director is to exercise that power.
- 18.3. The Chief Executive and Directors have the power to take all operational decisions within agreed service plans, budgets and policies in relation to the services for which they are responsible. They will keep the Leader and Cabinet informed of the work of their service area.
- 18.4. The Directors will in the absence of the Chief Executive and in accordance with an agreed rota, undertake on the Chief Executive's behalf such actions as are required to enable the Council to fulfil its functions.
- 18.5. In relation to the specific service areas for which he or she is responsible the Chief Executive and Directors will perform the following functions:

- (a) Manage, direct and control all resources allocated to the relevant service area in accordance with the Council's policies and procedures
  - (b) Co-ordinate and monitor work through approved plans and policies, reporting compliance with targets and performance to the relevant Portfolio Holder and any relevant Committee
  - (c) Ensure compliance with and discharge all requirements of relevant legislation, orders, directives and the Council's policies and procedures
  - (d) Take decisions on all operational management and staff management and, where appropriate, property matters
  - (e) Carry out decisions properly authorised by the Leader, Cabinet, Cabinet Member, Full Council, one of the Council's Committees or an Officer acting under delegated powers
  - (f) Take any action for which they are specifically responsible under any policy, procedure or other document approved or adopted by the Leader, Cabinet, Cabinet Member, Full Council, one of the Council's Board, Committees or Panels or an Officer acting under delegated powers
  - (g) Support the Cabinet in the development of the Council's Key Policy Framework
  - (h) Support Councillors in their Ward Councillor role
  - (i) Recommend to the Monitoring Officer the prosecution or instigation of any legal proceedings on behalf of the Council
  - (j) To provide and submit a bid for resources in accordance with the approved Budget process
  - (k) To determine the level of charges for Council services in order to maximise income and in accordance with legislative requirements and any agreed charging policies
  - (l) To issue licences and registrations relating to any of the approved functions
  - (m) To serve a requisition for information about an interest in land using powers relevant to the operation of the service area
- 18.6. Every Officer making decisions under delegated powers is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements.
- 18.7. An Officer may refer a delegated matter to the Leader, Cabinet or Full Council meeting or to one of the Council's Committees for decision rather than take the decisions themselves.

- 18.8. Delegations made under this Scheme may be exercised by the nominated Officer and includes anything which facilitates or is conducive or incidental to the discharge of those delegated functions, tasks or responsibilities.
- 18.9. Where authority has been delegated to an Officer under this Scheme that Officer may authorise any other Officer under their managerial control to act on their behalf, either indefinitely or for a specific period of time subject to the following:
- (a) Such powers being exercised in the name or on behalf of the relevant Chief Officer or Director to whom the delegations were made
  - (b) Responsibility in law for any actions taken by a substitute Officer shall remain with the Officer to whom authority was originally delegated

## **Specific Functions**

### **19. Functions of the Monitoring Officer**

19.1. The Monitoring Officer shall:

- (a) Maintain an up-to-date version of the Constitution and ensure that it is available to Councillors, Officers and the public
- (b) Ensure lawfulness and fairness of decision-making. After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to Full Council, or to the 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. Such a report will have the effect of stopping the proposal or decision being carried out until the report has been considered
- (c) Contribute to the promotion and maintenance of high ethical standards and standards of conduct by supporting the Standards Committee
- (d) Ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible
- (e) Give advice on whether decisions of the Cabinet are in accordance with the Budget and Key Policy Framework
- (f) Provide advice on the scope of powers and authority to take decisions, maladministration, financial misconduct, probity and Budget and Key Policy Framework issues to all Councillors
- (g) Contribute to the Corporate Management of the Council, in particular through the provision of professional advice

- 19.2. In relation to the Code of Conduct for Councillors the Monitoring Officer shall:
- (a) Provide advice to the Standards Committee
  - (b) Advise Councillors and co-opted members about conduct issues and advise on the interpretation of the Code of Conduct and related legislation
  - (c) Grant dispensations to Councillors in accordance with the provisions of the Localism Act 2011
  - (d) Deal with cases of alleged breaches of the Code of Conduct in accordance with the Council's arrangements
  - (e) Receive copies of whistle-blowing allegations of misconduct under the Council's Whistle-Blowing Policy
- 19.3. In relation to Executive decision-making the Monitoring Officer will provide a report to Full Council when requested by the Chairman of an Overview and Scrutiny Board or Committee where the Board or Committee is of the opinion that an Executive decision has been made which is a Key Decision but has not been treated as a Key Decision.

## **20. Functions of the Section 151 Officer**

20.1. The Section 151 Officer shall:

- (a) Report to Full Council and the Council's External Auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. The report is to be made after consulting with the Head of Paid Service and the Monitoring Officer
- (b) Be responsible for the administration of the financial affairs of the Council
- (c) Contribute to the Corporate Management of the Council, in particular through the provision of professional financial advice
- (d) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget issues to all Councillors
- (e) Support and give advice to Councillors and Officers in their respective roles
- (f) Provide financial information to the media, members of the public and the community
- (g) Maintain the Council's Financial Framework and the Financial Regulations

- (h) Carry out all those other functions and responsibilities as set out in the Council's Financial Framework and required by law

## **21. Functions of the Scrutiny Officer**

21.1. The Council must appoint a person as Scrutiny Officer whose functions shall be as follows:

- (a) To promote the role of the Council's Overview and Scrutiny function
- (b) To provide support to the Council's Overview and Scrutiny function and the members of the Boards and Committees
- (c) To provide support and guidance in respect of the Overview and Scrutiny function to:
  - (i) Councillors
  - (ii) Members of Cabinet
  - (iii) Officers

21.2. To preserve the independence of the role the Statutory Scrutiny Officer shall have the right to raise issues and concerns directly with the Monitoring Officer should they consider they are being placed in a position of conflict.

## **Appendix 1 - Member Referral Protocol for Planning Applications**

The provisions for a ward Councillor to refer planning applications to planning committee are set out in Part 3 Section 2 (g) of the BCP Council Constitution.

Criterion (g) (ii) requires ward Councillors to submit planning committee referral requests in accordance with the agreed protocol for call in. The call-in protocol is set out as follows:

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