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## Part 1 - Summary and Explanation

### 1 The Council's Constitution

- 1.1 The historic cathedral city of Winchester lies at the heart of the wider City of Winchester district under the jurisdiction of Winchester City Council. It covers a large area of 660 kilometres (250 square miles) with 40% of the district in the South Downs National Park.
- 1.2 Winchester is a county town and developed from the Roman town of Venta Belgarum, itself having Iron Age roots and is one of the eleven district councils within the two-tier shire county in Hampshire.
- 1.3 In 1974, Winchester City Council achieved its current form when Winchester City Council, Droxford Rural District Council and the northern parts of Winchester Rural District Council were consolidated into the current City Council – although the city's tradition of local self-government is much older with its earliest extant charter dating from 1155, first reference to the office of the Mayor in 1200 and the election of councillors beginning after the Municipal Corporations Act of 1835.
- 1.4 Today, Winchester and its district has a population over 127,000 residents and 45,000 households. Of these, about one third live in Winchester town itself with the remainder living in either the five larger settlements of Alresford, Bishops Waltham, Denmead, Whiteley and Wickham, or the smaller villages or hamlets.
- 1.5 The Constitution of Winchester City Council sets out:
  - a. how the Council operates
  - b. how decisions are made
  - c. the procedures which are followed to ensure that both of these are efficient, transparent and accountable to local people.
- 1.6 Some of these processes are required by law whilst others are a matter for the Council to choose.
- 1.7 The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 2 What is in the Constitution?

2.1 The Constitution contains 16 Articles which explain the Council's approach to ensure efficient and effective decision-making which is transparent, accountable and encourages community involvement. A key element is an explanation of the rights of members of the public and how the key parts of the Council operate. The Constitution is therefore set out with the following Articles:

Article 1	The Constitution
Article 2	Members of the Council
Article 3	Members of the Public and the Council
Article 4	Full Council Meeting
Article 5	Chairing the Council
Article 6	The Cabinet (Executive)
Article 7	Overview and Scrutiny Committees
Article 8	Regulatory and Non-Executive decision-making Committees
Article 9	Audit and Governance Committee
Article 10	Area Committees and Forums
Article 11	Joint Arrangements
Article 12	Officers
Article 13	Decision Making
Article 14	Finance, Contracts and Legal Matters
Article 15	Review and Revision of the Constitution
Article 16	Suspension, Interpretation and Publication of the Constitution

2.2 The constitution also sets out in more detail information on:

- a. [Responsibility for Functions \(Part 3\)](#)
- b. [Rules and Procedures \(Part 4\)](#)
- c. [Codes and Protocols \(Part 5\)](#)
- d. [Members Allowances \(Part 6\)](#)
- e. Organisational Management Structure

## 3 How the Council Operates

3.1 The Council comprises 45 Councillors who each serve a four-year term. One third of the Council is elected three years in four. Hampshire County Council elections take place in the fourth year.

3.2 Councillors are democratically accountable to all residents of the ward from which they are elected. The overriding duty of Councillors is to the whole community but they have a special duty to their residents including those who did not vote for them.

- 3.3 In order that all of the public can have confidence in decision made and the way that the Council operates, Winchester City Council complies with the six core principles of good governance as developed by the Independent Commission for Good Governance in Public Services. These being; focusing on the Council's purposes and on outcomes for the community and service users, performing effectively in clearly defined functions and roles, promoting values for the whole organisation, demonstrating the values of good governance through behaviour, taking informed, transparent decisions and managing risk, engaging stakeholders and making accountability real.
- 3.4 In accordance with the Localism Act 2011 provisions and the Seven Principles of Public Life (known as the Nolan Principles), when acting in this capacity Councillors must commit to behaving in a manner that is consistent with the following principles to maintain public confidence and ensure high standards in the way they undertake their public duties. The Seven Principles of Public Life are;
- a. Selflessness: Holders of public office should act solely in terms of the public interest.
  - b. 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.
  - c. Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
  - d. 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.
  - e. 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.
  - f. Honesty: Holders of public office should be truthful.
  - g. 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.
- 3.5 One of the Audit and Governance Committee's functions is to promote and maintain high standards of conduct by Councillors and any co-opted members.
- 3.6 All Councillors meet together at a meeting called Full Council. Meetings of Full Council are open to the public unless certain types of confidential and

exempt information are discussed. At Full Council meetings Councillors decide the Council's overall policies and set the budget each year. In particular, Full Council shall:

- a. Appoint the Leader of the Council (the Leader then appoints their Deputy and other Members of the Executive, who collectively form the Cabinet);
- b. Appoint the membership of the Overview and Scrutiny committees and Regulatory Committees;
- c. Retain responsibility to make a number of decisions which have not been delegated to Cabinet (e.g. approval of the annual budget and the various policies, plans and strategies forming the policy framework, such as the Council Plan and the Development Plan -see [Part 3](#) for full list);
- d. Ensure a procedure for the public to present petitions at Full Council and address the meeting;
- e. Ensure a procedure for Council Questions from both members of the public and fellow Councillors at each meeting;
- f. Has a procedure to hold the Cabinet and Committees to account.

#### 4 Members of the Public's Rights

- 4.1 The Council will be outward looking and will seek to engage with the public whenever possible. The term members of the public refers to all the people of Winchester and the District who we serve. Members of the public have a number of rights in their dealings with the Council. These are set out in more detail in [Article 3](#) . Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can also advise on an individual's legal rights. Where the public uses specific Council services, as members of the public or consumers, they may have additional rights. These are not covered in this Constitution but details of these rights will be explained by the services themselves.
- 4.2 The Council welcomes participation by all members of the public in its work.
- 4.3 More specifically members of the public have the right to:
  - a. Vote if eligible at local elections if they are registered;
  - b. Contact their ward or other Councillor or Cabinet member about any matter of concern but it is recommended that they contact their local Councillor in the first instance;
  - c. Obtain a copy of the Constitution;
  - d. Petition to request a referendum on a mayoral form of executive;

- e. Present petitions at Full Council, Cabinet or the Overview and Scrutiny Committees and address the meeting;
- f. Attend meetings of the Council and its Committees, to observe or to speak during the public participation sessions (except where, for example, exempt or confidential matters are being discussed);
- g. Find out, from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- h. See reports and background papers, and any record of decisions made by the Council, Cabinet and Committees (except in relation to confidential or exempt business);
- i. Complain to the Council about its functions and services;
- j. Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- k. Complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- l. Inspect the Council's accounts and make their views known to the external auditor.

## 5 How Decisions Are Made

- 5.1 The Council has adopted executive arrangements for the discharge of its functions in the form of a Leader with a Cabinet.
- 5.2 The Cabinet is the part of the Council which is responsible for most day-to-day decisions (other than on planning applications, human resource issues and licensing matters). The Cabinet consists of the Leader and up to nine other Councillors who are appointed by the Leader.
- 5.3 When major decisions are to be discussed or made (known as Key Decisions), these are published in the Cabinet's Forward Plan insofar as they can be anticipated. Meetings of the Cabinet will generally be open for the public to attend, except when confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to a Full Council meeting who, as a whole, make the decision.

## 6 Overview and Scrutiny

- 6.1 The Council has established a principle Overview and Scrutiny Committees (the Scrutiny Committee) and two policy Committees which have a general remit to maintain an overview of the discharge of the Council's executive

functions and identify any items for review. The Scrutiny Committee may undertake a scrutiny review itself or appoint an Informal Scrutiny Group or a Sub-Committee to carry out the task. It can call in a decision which has been made but not yet implemented.

## 7 Regulatory and Other Committees

7.1 The following additional Committees have been established to carry out the various functions that the Government has stipulated should not be the responsibility of Cabinet:

- a. The Planning Committee (responsibilities include planning applications and enforcement)
- b. Licensing and Regulation Committee (responsibilities include all Council licensing and regulation functions)
- c. Licensing Sub-Committee (responsibilities include dealing with applications under the Licensing Act 2003, hackney carriage/private hire licences applications and appeals, and any other licensing matters referred to it by the Service Lead - Legal)
- d. Housing (Appeals) Committee (responsibilities include the determination of appeals against officer decisions on individual housing cases)
- e. Human Resources Sub Committee (responsibilities include the determination of appeals or grievances from Council employees)
- f. Winchester Town Forum (responsibilities include acting as a consultative and advisory body about issues affecting the Winchester Town wards)
- g. Audit and Governance Committee (responsibilities include considering both the internal Audit Manager's annual report and opinion and also reports of the Council's external auditor. It also reviews and approves the Council's Annual Statement of Accounts and monitors the governance framework of the Council). This Committee has delegated authority to undertake the Council's Standards and human resources functions that are reserved to Committees. There will be two Sub-Committees, a Standards Sub-Committee and a Human Resources Sub-Committee.

## 8 The Council's Staff

The staff of the Council (called 'officers') provide advice, implement decisions and manage the day-to-day delivery of its services. Specific officers have a statutory duty to ensure that the Council acts within the law and uses its resources wisely. The Protocol set out in [Part 5](#) governs the relationships between Officers and Councillors.

For further information, please contact the Democratic Services Team Manager:  
David Blakemore  
Winchester City Council  
Colebrook Street  
Winchester  
SO23 9LJ  
Tel: 01962 848 217  
Email: [dblakemore@winchester.gov.uk](mailto:dblakemore@winchester.gov.uk)



## Part 1.2 - Winchester City Council Constitution

### Interpretation Section of terms used in the Constitution

The Constitution contains references which are defined as follows:

Approved Duties	Those meetings, events, etc. approved for the purposes of claiming travel and subsistence allowances
Background papers	A list at the end of a report of those documents used in compiling the report, which must be available for inspection on request by a member or the public.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. See also Value for Money.
Bidder	Any person, firm or organisation who asks to be or is invited to submit a Quotation or Tender.
Budget	The revenue and capital budget in any one year.
Call-in	The process by which Scrutiny Members, on the principle Overview and Scrutiny Committee, may challenge or require further information on an Executive decision.
Chairperson of Committee	The elected Chairperson or in their absence, the Vice- Chairperson. The term may also apply to an elected Councillor elected to preside in the absence of the Chairperson and Vice-Chairperson.
Chief Officer	The Chief Executive and Directors.
Civic Year	The period between annual meetings of the Council, usually held in May.
Clear Day	Not to include the day of publishing or the day of the meeting and to exclude the weekend and Bank Holidays.

Committee	A formal decision-making body which has functions delegated to it by either Council or the Executive.
Confidential Information	As defined in Section 100A(3) of the Local Government Act 1972, this covers information provided to the Council by a Government department on terms, which prohibit its disclosure and information, which the Council is prohibited from disclosing by statute or by court order.
Constitution	The document describing the decision-making arrangements for the Council, together with the detailed rules and procedures for the operation of the decision-making arrangements. The document is required, and its form dictated by the Direction of Secretary of State made under the provisions of the Local Government Act 2000.
Co-opted Member	A non-elected person appointed to a Committee, Sub-Committee or panel on a non-voting basis.
Contract Award	Process by which the participants in a procurement procedure are informed of the results.
Contract Award Criteria	The criteria by which a successful quotation or tender is to be selected.
Contract Award Procedure	The procedure for awarding a contract.
Contract Register	The register to be kept and maintained by the Procurement Manager recording details of all Contracts entered into by the Council over the value of £5,000.
Contracting Authority	An authority as defined in the Public Contract Regulations 2015 (PCR2015), means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies, governed by public law, and includes central government authorities, but does not include His Majesty in her private capacity.
Contracting Decision	Any decisions which impacts on either the procedure or the outcome of the process to include but not limited to: <ul style="list-style-type: none"> <li>• Withdrawal of Invitation to Tender</li> </ul>

- Whom to invite to submit a Quotation or Tender
- Shortlisting
- Award of contract
- Termination of a contract

Council	The principal decision-maker. This is supplemented by the term “Full Council” which is defined in Article 4 as every member of Winchester Council meeting together formally.
Councillor	Person elected to be democratically accountable to their local community in the running of the council.
Declaration of Interests	The requirement for Councillors to give notice of their interests in matters related to an item under consideration (see also Disclosable Pecuniary Interests and Non-Pecuniary Interests).
Delegated Powers	The description of the level of authority delegated to a Committee, Sub-Committee, panel, Executive Member or Officer.
Deputy Leader of the Council	The elected Councillor appointed by the Leader as Deputy Leader for a four-year term.
Disclosable Pecuniary Interests	The requirement for Councillors to register and declare any financial or beneficial interests as defined in <a href="#">Part 5 – Members’ Code of Conduct</a> .
EU Treaty Procedures	The principles enshrined within the various Treaties. Although these apply directly to all procurement activity above the Public Procurement Threshold, they should apply, as a matter of good practice, to all procurement regardless of value.
Executive	The decision-making body of the Council with responsibility for Executive functions comprising those elected members appointed by the Leader. At Winchester City Council the Executive is known as the Cabinet.
Exempt Information	As defined by Section 100(1) of the Local Government Act 1972, this includes a number of different categories of information, under which the Council is entitled to withhold certain reports

	from the public ( <a href="#">See part 4.4 – Access to Information Procedure Rules</a> ).
Extraordinary Meeting	A meeting of the Council convened for specific purposes.
<a href="#">Financial Procedure Rules</a>	The Council’s financial regulations incorporated within the Constitution
Financial Vetting	The process by which officers appointed by the Corporate Head of Finance to review the information supplied by the Bidder or Bidders to establish their financial suitability.
Five Day Rule	Under the Local Government Act 1972 (as amended by the Access to Information 1985) Act, the Council is required to give notice and make available, the agenda and associated papers for five clear days.
Formal Quotation	The process of obtaining in the form required by the <a href="#">Contract Procedure Rules</a> .
Forward Plan	The published document which provides the statutory notice of the intention by the Executive, an Executive Member or an Officer to make a key decision. The document also sets out other scheduled major decisions.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Examples of Framework Agreements include those awarded by the Government Procurement Service and others.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
Group Leader	The Councillor identified by a political group as its Leader by notice in writing. The Leader of the majority group is normally elected Leader of the Council.

Group Manager	The Councillor who is responsible for managing the work of councillors within the Group, and the overall co-ordination of the business of the Group.
Head of Paid Service	The Officer designated as such under Section 4 of the Local Government and Housing Act 1989 (see Part 2, Chapter 10).
Informal Working Groups	Non decision-making groups set up on an ad hoc basis, comprising of Councillors, officers and external advisors where appropriate. They are tasked to look at specific issues with agreed terms of reference. They act in an advisory and consultative manner and will run until the task is complete. Informal Councillor officer working is commonplace and an essential part of the management and operation of a local authority. They are not usually subject to the <a href="#">Access to Information Procedure Rules</a> .
Invitation to Tender	Invitation to Tender documents in the form required by the <a href="#">Contract Procedure Rules</a> .
Key Decision	As defined by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These decisions may be made by the Leader, portfolio holders, the Cabinet and its Committees and officers. The most significant decisions to be taken by the Executive. A more specific definition can be found in <a href="#">Part 2, Article 13</a> .
Leader of the Council	The elected Councillor elected by Council as leader for a four-year term.
Licensing Authority	The Council exercising its duties and responsibilities under the Licensing Act 2003.
Local Choice Functions	As detailed in <a href="#">Part 3.1</a> of the constitution, the description of responsibility for local choice functions under Section 13(3)(b) of the Local Government Act 2000 to the Council, the Executive, regulatory Committees and Officers.
Members' Allowances Scheme	The scheme approved by Council on recommendation from the independent remuneration panel for the payment of allowances to Members.

Members' Code of Conduct	The Code adopted by the Council which describes the conduct required of elected or co-opted Members of the Council.
Members of the Public	They are such people as are: Citizens under the British Nationality Acts or who have acquired statutory rights under various enactments, whether as inhabitants of the area or to whom the Local Authority is obliged to respond to in respect of its services or operations as a matter of law.
Monitoring Officer	The Officer designated as such under Section 5 of the Local Government and Housing Act 1989 or their deputy ( <a href="#">see Part 2, Article 12</a> )
Nominated Suppliers and Sub-Contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	Considerations which may either be brought to the attention of an officer and may be within their own knowledge but have no significance when evaluating a potential bidder.
Non-Key Decisions	Decisions that fall within the categories of Significant Operational (Non-Key Decisions) and Administrative Decision as defined in <a href="#">Article 13</a> in Part 2 of the Constitution.
Non-Pecuniary Interests	The requirement for Members to register and declare any non-financial interests as defined in <a href="#">Part 5 – Members' Code of Conduct</a> .
Officers	The employees of the Council.
Officers' Code of Conduct	The Code adopted by the Council which describes the conduct required of its Officers.
Ordinary Meeting	A meeting of the Council included in the approved calendar of meetings.
Outside Bodies	External organisations which have invited the Council to nominate representative(s) to serve on its management body.
Panel	A formal group of Members with functions delegated by a Committee or a Sub- Committee.
Party Whip	The management of internal party discipline and activities. To instructions given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor

	shall speak or vote on any committee, or the application of threat to apply any sanctions by the Group in respect of that Member should they speak or vote in any particular manner
Policy Framework	The plans and strategies which together make up the overarching policy direction determined by Council. This amplified the Budget and Policy Framework rules in <a href="#">Part 4 of the Constitution</a> .
Political Balance	This is the duty of the Council to allocate seats on Council Committees in line with the formula set out by the Local Government and Housing Act 1989.
Political Group	As defined in the Local Government (Committees and Political Groups) Regulations 1990, any group of at least two Members who have notified the Council in writing that they wish to be treated as a political group.
Portfolio Holder	Otherwise known as Cabinet Members, those elected Members appointed to the Cabinet with defined areas of responsibility called portfolios.
Principal Opposition Leader	The councillor that leads the largest political party that is not the administration, to both ensure democratic accountability and the holding to account of the administration.
Procurement and Contract Management Strategy	The document setting out the Council's corporate approach to procurement and contract management and key priorities
Proper Officer	The authorised Officer under statutory enactments (see <a href="#">Part 2, Article 12 – Designation of Proper Officers</a> ).
Quasi-Judicial	A process of decision-making, which is similar to a court of law, in that each party with an interest in the matter under consideration has an opportunity to make their case, following which a decision on the facts and representation is made.
Quorum	The minimum number of Members required to be present for a meeting to be properly convened.
Regulatory Committees	Those Committees of the Council falling outside of the executive arrangements that are charged with regulatory functions, such as development management, licensing, etc.

Relevant Contract	Contracts to which the Contract Procedure Rules apply.
Scrutiny	A process of holding the Executive to account.
Section 151 Officer	The Officer designated as such under Section 151 of the Local Government Act 1972 (see <a href="#">Article 12</a> - Officers, in Part 2.
Standard Terms and Conditions	The terms and conditions agreed by the Council as being applicable in all contracts as an alternative to either bespoke terms and conditions or the terms and conditions of the other party to the contract or agreement.
Statutory Undertakers	The various companies and agencies with legal rights to carry out certain development and highways works, such as utilities and telecoms.
Sub-Committee	A formal decision-making body with functions referred or delegated to it by a Committee.
Tender	A candidate's proposal submitted in response to an Invitation to Tender.
Terms of Reference	The description of what a Committee, Sub-Committee or panel may concern itself with.
Their/They	Read, where appropriate: his/hers/zir/he/she/ze.
Total Value	The whole of the value or estimated value (in money or equivalent value) for a single procurement or disposal.
Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)	The regulations that apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (for example a private contractor or local authority in-house team) to another (for example, following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer.



UK Public Procurement Procedure	The procurement procedure required to be followed in accordance with the Public Contract Regulations 2015.
UK Public Procurement Threshold	The contract values at which the public procurement directives apply, as amended from time to time.
Urgent Matter	A matter which is to be considered at a meeting of the Council, a Committee or a Sub-Committee by virtue of section 100B (4)(b) of the Local Government Act 1972. This provides for matters not appearing on the agenda to be considered at the meeting, if by reason of special circumstances, the Chairperson is of the opinion that the item should be considered as a matter of urgency.
Value for Money	Value for money is not the lowest possible price; it combines goods or services that fully meet the Council's needs, with the level of quality required, delivery at the time the Council needs it, and at an appropriate price.
Ward	A geographical area of the district represented by 1 – 3 elected Members.
Written Notice	Unless otherwise stated, a notice given in writing or electronically.

## Part 2 - Articles of the Constitution

### 1 Article 1 – The Constitution

#### 1.1 Powers of the Council

This is the Constitution of Winchester City Council, and the Council will exercise all its powers and duties in accordance with the law and this Constitution.

#### 1.2 The Constitution

This Constitution and all its appendices form the Constitution of Winchester City Council (the Constitution).

#### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

#### 1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it thinks is most consistent with the purposes stated above.

Amendments will be made to the electronic version of the Constitution as soon as reasonably practical and published on the Council website to provide transparency.

These amendments will either be those made under the delegated powers given to the Chief Executive and Monitoring Officer or amendments that are made by Full Council.

## 2 Article 2 – Members of the Council

### 2.1 Composition and Eligibility

The Council comprises of 45 Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with the scheme drawn up by the Local Government Boundary Commission for England.

Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor. The Local Government Act 1972 sets out in full the qualifications for standing for election as a Councillor.

### 2.2 Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year beginning in 2021, except in 2025 and every 4th year after then when there will be no regular election. For Councillors elected from 2021 onwards, the terms of office will be four years, starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later<sup>1</sup>.

### 2.3 Roles and Functions of all Councillors

All Councillors will undertake the following key roles:

- a. Collectively be the ultimate policy makers and carry out, and participate in a number of strategic and corporate management functions;
- b. Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
- c. Effectively represent the best interests of their ward and individual constituents;
- d. Respond to constituents' enquiries and representations, fairly and impartially;
- e. Participate in the governance of the Council; and
- f. Maintain the highest standards of conduct and ethics.

### 2.4 Rights and Duties of Councillors

As detailed in the Access to Information Procedure Rules Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions, and

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<sup>1</sup> Councillors Terms of Office are governed by the provisions of the Local Government Act 1972, Section 7. The Leader, Chairs and Vice-Chairs, subject to remaining an elected Councillor, hold office until the annual meeting of the Council

in accordance with the law. They will not make public any information which is confidential or exempt, or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

For these purposes “confidential” and “exempt” information are defined in the [Access to information Rules](#) in this Constitution.

## 2.5 Conduct

Councillors will at all times observe the [Members Code of Conduct](#) and the [Protocol for Member/Officer Relations](#) set out in this Constitution.

## 2.6 Allowances

Councillors will be entitled to receive allowances in accordance with the [Members Allowance Scheme](#) set out in this Constitution.

### 3 Article 3 – Members of the Public

#### 3.1 Member of the Public Rights – Contacting Councillors and Council Officers

The term member of the public refers to all the people of Winchester District who we serve.

Councillors and Council officers welcome contact from the public and encourage positive engagement. Details of how to contact Councillors and particular Council officers or services can be found on our website. members of the public have a right to expect responses within agreed timescales and respectful behaviour from Councillors and Council officers.

In return members of the public are expected to treat Councillors and Council officers with politeness and courtesy. If members of the public act in an abusive, intimidating or threatening manner Councillors 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.

Members of the Public have the following rights:

- a. Voting and Petitions – members of the public on the electoral roll, any member of the Council, any local government elector of the Winchester District, any resident of the Winchester District, any person who works or studies within the Winchester District for the area have the right to vote and sign a petition to request a referendum for an elected mayoral form of Constitution;
- b. Information – members of the public have the right to:
  - (i) Attend meetings of Full Council, Cabinet and Committees except where confidential or exempt information is likely to be considered and where the meeting, or part of the meeting, is therefore held in private;
  - (ii) Establish from the Forward Plan what key executive decisions will be taken, by whom and when;
  - (iii) See reports and background papers, and any record of decisions made by the Council and the Cabinet (except in relation to confidential or exempt business);
  - (iv) Inspect the Council's accounts and make representations to the Council's external auditors.
  - (v) Access information in accordance with the provisions of the Freedom of Information Act and Data Protection Law.
  - (vi) Obtain a copy of the Constitution.
- c. Participation – members of the public have the right to participate in a number of public meetings of the Council which includes:

- (i) to present petitions and ask questions at Full Council meetings in accordance with the relevant schemes;
  - (ii) Cabinet and Committee meetings where public participation is held immediately after the start of meeting;
  - (iii) at the invitation of the Chairperson to address that meeting; and
  - (iv) the statutory procedures for public representations that apply at Planning and Licensing Committee meetings.
- d. Complaints – members of the public have the right to complain to:
- (i) The Council itself under its complaints scheme;
  - (ii) The Ombudsman after exhausting the Council's own complaints scheme; and
  - (iii) The Monitoring Officer about a breach of the Councillors Code of Conduct.

### 3.2 Obligations of Members of the Public

Members of the public must not be violent, abusive, or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers. In addition, when attending meetings members of the public will be expected to comply with the procedures of that meeting and accept the decision of the Chairperson of that meeting or they may be asked to leave the meeting.

### 3.3 Reporting on meetings

Subject to the Council's requirements, members of the public have the right to report on any meetings of the Council that are open to the public. This can be by filming, audio-recording, taking photographs and using social media or any other appropriate method of reporting subject to it being conducted in a manner which does not disrupt the meeting.

Members of the public rights to information and to participate and report are explained in more detail in the [Access to Information Procedure Rules](#) in this Constitution..

## 4 Article 4 – Full Council

### 4.1 Meaning

Full Council means every Member of Winchester City Council meeting together formally. By law, there are some things that only Full Council has the power to do. Other matters are allocated by this Constitution.

### 4.2 Responsibility for Functions

The Constitution sets out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Full Council is responsible for:

### 4.3 Policy and Budget Framework

The policy framework includes the following:

- a. The Council Plan;
- b. Plans and strategies which together comprise the Winchester City Council Local Plan;
- c. A plan or strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue provision;
- d. The Licensing Authority Policy Statement;
- e. Any plan or strategy (whether statutory or not) which has been identified by resolution of Full Council as a matter for a Full Council decision, or where Cabinet has referred a plan or strategy for Full Council decision;
- f. Variations to any of the above-mentioned plans.

### 4.4 Budget

The Council will also be responsible for the adoption of its annual budget. Once the annual budget is in place it will be the responsibility of the Cabinet to implement. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax, decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 4.5 Housing Land Transfer

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of 500 or more properties to a person under the Leasehold



Reform, Housing and Urban Development Act 1993, or to dispose of land used for residential purposes where approval is required under Section 32 or 43 of the Housing Act 1985.

#### 4.6 Functions of Full Council

Only Full Council will exercise the following functions:

- a. Adopting and changing those parts of the Constitution outlined in Article 15 as requiring Full Council approval;
- b. Approving or adopting the policy and Budget framework, the annual budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- c. Matters which the Financial Procedure Rules in Part 4.6 of this Constitution require Full Council approval;
- d. Making decisions about any matter in the discharge of an executive function which is covered by the policy and budget framework where the decision-maker is minded to make it in a manner which will be contrary to the policy framework or contrary to/not wholly in accordance with the budget framework subject to the urgency procedure contained in the Access to Information Procedure Rules in this Constitution (Part 4.4)..
- e. Electing the Leader, removing the Leader by resolution and electing a replacement in accordance with this Constitution;
- f. Determining the political balance of the Council and the allocation of seats in accordance with it, or by unanimous vote in some other way as the Council sees fit in accordance with Section 15 Local Government and Housing Act 1989;
- g. Deciding which Committees of the Council to establish for the municipal year and the size and terms of reference for those Committees.
- h. Receiving or arranging the delegation of nominations of members to serve on each Committee of the Council and any outside body to which a new appointment or reappointment is required unless the appointment is an executive function, or it has been delegated by Full Council;
- i. Receiving reports at least annually, by way of update on the work of representatives to Outside Bodies where powers are conferred to them by the Council, to include but not exhaustive, Partnership for South Hampshire and South Downs National Park Authority.
- j. Adopting a Members Allowances Scheme under Article 6;
- k. Changing the name of the council, confirming the title of High Steward, Honorary Alderman or Freedom of the City and other honorary titles;
- l. Approving the appointment or dismissal of the Head of Paid Service;

- m. Making, amending, revoking, re-enacting or adopting byelaws, and promoting or opposing the making of local legislation or personal Bills;
- n. Making a request under Section 57 (requests for single member electoral areas) of the Local Democracy, Economic Development and Construction Act 2009 for single-member electoral areas;
- o. Passing a resolution to change a scheme for elections under Section 32(1), 37(1) or 39(1) (resolutions for Schemes for Elections) of the Local Government and Public Involvement in Health Act 2007;
- p. The functions under the Local Government Act 2000 of:
  - (i) Deciding whether to make proposals for a change in governance arrangements of the kind set out in sections 9KA and 9KB of the 2000 Act;
  - (ii) Deciding whether a change of the kind set out in Section 9KA of the 2000 Act should be subject to approval in referendum under Section 9M of the Act;
  - (iii) Passing a resolution to make a change in governance arrangements under Section 9KC of that Act;
- q. The function of making an Order giving effect to recommendations made in a Community Governance Review under Section 86 (reorganisation of community governance) of the Local Government and Public Involvement in Health Act 2007;
- r. The duty to make a change in governance arrangements under paragraph 3 or 8 of Schedule 4 to the Local Government and Public Involvement in Health Act 2007;
- s. Adopting the local authority's code of conduct and any local protocols on member conduct;
- t. The powers to establish, confer functions on, and request the dissolution of, a joint Committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority, under Sections 29, 30 and 31 of that Act.
- u. All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- v. All other matters which, by law and/or by this Constitution are reserved to Council.

The Council may also:

- Represent the views of the community on matters of significance; and
- Take decisions on matters which are not the responsibility of Cabinet

#### 4.7 Full Council Meetings

There are three types of Full Council meeting:

- a. The annual meeting;
- b. Ordinary meetings;
- c. Extraordinary meetings

and they will be conducted in accordance with the [Council Meeting Procedure Rules](#) in this Constitution.in this Constitution.

## 5 Article 5 – Chairing Full Council

### 5.1 The Role and Functions of the Mayor

The Mayor will be elected by Full Council annually and will chair all meetings of Full Council. In the absence of the Mayor, the Deputy Mayor (also elected annually) will chair the applicable Full Council meeting.

The Mayor (or Deputy Mayor) will have the following responsibilities:

- a. To uphold and promote the purposes of the Constitution, and to interpret the Constitution where necessary;
- b. To preside over meetings of Full Council so that its business can be carried out efficiently, effectively and with regard to the rights of Councillors and the interests of the community;
- c. To ensure that Full Council meetings are a forum for the debate of matters of concern to the local community and a place at which Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- d. To promote public involvement in the Council's activities;
- e. To be the conscience of the Council;
- f. To decide in the absence of the Chair of the relevant Overview and Scrutiny Committee whether a matter is so urgent as to allow the Cabinet to take a decision in respect of it even though it is not contained in the Forward Plan and five clear days' notice of the decision has not been given, or that a decision concerns a plan or strategy forming part of the Policy and Budget Framework and would be contrary to it or in the case of the budget not solely in accordance with that framework.
- g. The Mayor, and in their absence, the Deputy Mayor, will attend such civic and ceremonial functions as the Council and they shall decide, and undertake those functions in a non-political manner, appropriate to the customs and practice of this ancient office.

## 6 Article 6 – The Cabinet (Executive)

### 6.1 Role

The Cabinet (the title given in this Constitution to the body otherwise known as the Executive is appointed to carry out those functions which are not the responsibility, by law or under this constitution, of Full Council).

The role of the Cabinet therefore is to:

- a. Make key decisions;
- b. Formulate the annual Policy and Budget Framework plans for submission to Council in accordance with the budget and policy framework procedure in Part Four of the Constitution;
- c. Implement the approved policy and budget framework;
- d. Determine recommendations and other matters referred to it by Committees, Sub-Committees or Full Council; and
- e. Carry out all the functions which by law, the Cabinet must carry out or it has chosen to carry out and which have not been delegated elsewhere.
- f. Appoint Councillors as representatives to Outside Bodies.

### 6.2 Form and Composition

The Cabinet will consist of:

- a. The Leader of the Council;
- b. The Deputy Leader; and
- c. At least two, but not more than eight, other Councillors appointed to the Cabinet by the Leader.

### 6.3 The Leader

The Chairperson of Cabinet will be a member elected to the position of Leader by the Council for a four year term unless they:

- a. resign;
- b. are no longer a Councillor; or
- c. are removed from office by an ordinary resolution on notice of Full Council in accordance with the Council Procedure Rules.

The deputy Leader will act as the Leader in the Leader's absence.

#### 6.4 Other Cabinet Members

Other Members of the Cabinet shall hold office for a term up to four years until:

- a. they resign;
- b. are no longer a councillor; or
- c. the Leader removes them from office.

#### 6.5 Proceedings of Cabinet

Proceedings of Cabinet shall take place in accordance with the [Cabinet Procedure Rules](#) set out in this Constitution. set out in this Constitution.

The Leader or Cabinet may appoint committees of the Cabinet or Committees as set out in the Cabinet Procedure Rules.

The Leader or Cabinet may appoint cross-party informal working groups as set out in the Cabinet Procedure Rules.

#### 6.6 Responsibility for the Functions

The Leader may exercise Executive Functions themselves or may otherwise make arrangements to delegate responsibility for their discharge as set out below.

The Leader may delegate Executive Functions to:

- a. The Cabinet as a whole;
- b. Cabinet Committees;
- c. An individual Cabinet Member;
- d. A Joint Committee;
- e. Another Local Authority; or
- f. An officer

The Monitoring Officer will maintain a list in this Constitution setting out which individual Members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions. Voting members of the Cabinet Committees can only include members of Cabinet.

## 7 Article 7 – Overview and Scrutiny Committees

### 7.1 General Role

The Council will appoint overview and scrutiny committees to discharge the functions conferred by section 21 of the Local Government Act 2000.

Overview and Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local people. The Committees should also be prepared to challenge and question decisions and make constructive criticism.

The Council has allocated its overview and scrutiny responsibilities across a total of three Overview and Scrutiny Committees;

- a. A Scrutiny Committee which holds the Cabinet to account has a strategic outlook and solely holds the power of Call-In having access to the key Scrutiny Committee which holds the Cabinet to account, has a strategic decision forward plan.
- b. Two policy-focused Committees, which undertake forward looking, policy development work and pre-decision scrutiny, relevant to their specific areas. These are the Economy and Housing Policy Committee and the Health and Environment Policy Committee.

The Monitoring Officer will have the discretion to decide which Committee is appropriate for the discharge of Overview and Scrutiny responsibilities having regard to Council priorities with a view to facilitating pre-decision scrutiny. Where there are overlapping jurisdictions, where matters fall in the remit of more than one Overview and Scrutiny Committee, the Monitoring Officer will use that discretion in consultation with the Committee Chairpersons.

The [Overview and Scrutiny Committee procedure rules](#) sets out the rules for the operation of these Committees and the detailed definitive Terms of Reference. sets out the rules for the operation of these Committees and the detailed definitive Terms of Reference.

### 7.2 Terms of Reference

#### a. The Scrutiny Committee

The broad terms of reference are as follows:

- (i) To review and scrutinise any decisions made or to be made or actions to be taken in connection with the discharge of the Council's functions, including holding the Cabinet to account by reviewing and scrutinising executive decisions.
- (ii) Reviewing and scrutinising the performance of the Council in relation to its policy objectives and performance targets

- (iii) Exercise the right to Call-In for reconsideration of decisions made but not yet implemented by the Leader, the Cabinet and Cabinet Members and Officers.

In general, the two Policy Committees facilitate the pre-decision scrutiny by:

- b. Assisting, if appropriate, the Council, Leader and Cabinet in the development of its policy and budget framework by in depth analysis of the policy issues within the priority areas allocated to them in the Council Plan.
- c. Conducting research if required, as well as community and other consultation if required, for the analysis of policy issues, the identification of possible options and to make recommendations to Cabinet or Council. They will consider the impact of policies that are being renewed, updated or refreshed to assess if and how they have made a difference.
- d. Questioning the Leader and other Members of the Cabinet and/or Committees and senior officers of the Council about their views and issues of proposals affecting the relevant priority of the Council Plan in each Committee's remit.

The two policy Committees' broad terms of reference are as follows:

e. Economy and Housing Policy Committee

To maintain a strategic overview of the progress towards the achievement of the relevant priorities in the Council Plan namely:

- (i) Making the District a premier business location
- (ii) Delivering quality housing options

f. Health and Environment Policy Committee

To maintain a strategic overview of the progress towards the achievement of the relevant priorities in the Council Plan namely:

- (i) Improving the quality of the district's environment
- (ii) Improving the health and happiness of the community



## 8 Article 8 – Regulatory and Non-Executive Decision-Making Committees

### 8.1 Regulatory and other Non-Executive Decision-Making Committees

Regulations made under the Local Government Act 2000 specify that certain functions shall not be the responsibility of the Executive (Cabinet), and for which and/or the exercise of which Full Council must by law reserve for itself or has chosen to do so. These are contained in [Article 4](#).

The Council will appoint Committees to discharge these functions. The Council's main regulatory Committees are set out below.

### 8.2 The Planning Committee

This Committee is responsible for matters relating to the control of the use of land including planning and listed building consents, the preservation of buildings and trees, conservation areas and enforcement.

### 8.3 The Licensing and Regulation Committee

This Committee is responsible for regulating the sale of alcohol, the provision of public entertainment and gambling, taxis/private hire vehicles and drivers, and such other matters within the remit of the Committee as set out in this Constitution.

Within its Terms of Reference are the appointments of:

- a. A Licensing Sub-Committee which will have delegated responsibility to responsibilities include dealing with applications under the Licensing Act 2003, hackney carriage/private hire licences; and
- b. applications and appeals, and any other licensing matters referred to it

### 8.4 The Audit and Governance Committee

This Committee will be responsible for Audit and Corporate Governance including the promotion and maintenance of high standards of conduct by members and co-opted members of the authority

Within its Terms of Reference Sub Committees can be appointed:

- a. A Standards Sub-Committee which will have delegated responsibility to consider investigation reports, in respect of Code of Conduct complaints, that are referred to it by the Monitoring Officer and conduct hearings into allegations that a Member or co-opted Member of the Council or Town/Parish Council has breached the relevant code of conduct.
- b. A Human Resources Sub-Committee can be appointed when required which will be responsible for the Council's Human Resources function where there is a specific requirement for this to be undertaken by a Committee which shall include disciplinary matters relating to relevant officers.

## 8.5 Housing (Appeals) Committee

To hear and determine the following matters where they do not fall, or are not decided, within the scheme of delegation to officers:

- a. Specific cases in respect of either public or private sector housing referred by the Strategic Director with responsibility for housing or where a specific request for consideration has been made by a Member of the Council; or
- b. Where housing applicants wish to appeal against the decision to pend their application for a period of one year; or
- c. To determine appeals in respect of discretionary housing payments.

## 8.6 Other Committees

The Council will appoint such other Committees as are set out in [Part 3](#) of the Constitution to discharge the functions described therein.

## 9 Article 9 – Audit and Governance Committee

### 9.1 Appointment

Full Council will appoint an Audit and Governance Committee which will be politically balanced.

Within its Terms of Reference Sub Committees can be appointed:

- a. A Standards Sub-Committee which will have delegated responsibility to consider investigation reports and any matters referred to them by the Monitoring Officer, in respect of Code of Conduct complaints, that are referred to it by the Monitoring Officer and conduct hearings into allegations that a Member or co-opted Member of the Council or Town/Parish Council has breached the relevant code of conduct
- b. A Human Resources Sub-Committee which will be responsible for the Council's Human Resources function where there is a specific requirement for this to be undertaken by a Committee which shall include disciplinary matters relating to relevant officers.

### 9.2 Composition

The size and composition of this Committee will be determined by Full Council from time to time. It will be separate, organisationally and practically, from the Cabinet and will not comprise of any Cabinet members.

If a meeting of a Sub-Committee is needed to be convened, members will be appointed from the main Committee.

### 9.3 Terms of Reference

The Committee will have the following terms of reference relating to audit, governance and human resources functions.

### 9.4 Audit

- a. Act as the Council's Audit Committee for internal and external audit.
- b. Agree and oversee the Council's Internal Audit Plan and monitor progress against this Plan.
- c. Receive, and consider the work of the external auditor.
- d. Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- e. Overview the Council's risk management arrangements to provide independent assurance of the adequacy of the risk management framework.

- f. Seek assurance that action is being taken on risk-related issues identified by auditors and inspectors.
- g. Approve the Governance and Assurance Statements, Statement of Accounts and anti-fraud and anti-corruption arrangements.
- h. To notify, report or recommend to Cabinet and Council as appropriate.
- i. Have continued due regard for all conduct and governance requirements that include the CIPFA (Chartered Institute of Public Finance and Accountancy) guidance.
- j. To review, monitor and consider reports from the Section 151 Officer on Treasury management, functions and activities.

#### 9.5 Governance functions

- a. Promote and maintain high standards of conduct by Councillors and any co-opted members.
- b. To operate the overall scheme in respect of the local determination of Code of Conduct complaints against Council and Parish/Town Members (this role is largely delegated by the Constitution to a Standards Hearings Sub-Committee and the Monitoring Officer as set out in greater detail in the Constitution).
- c. Approve, and review relevant codes of conduct, protocols and other arrangements that relate to the governance of the Council.
- d. Promote and ensure training of Councillors and co-opted members in the relevant governance aspects.
- e. Grant dispensations, where referred by the Monitoring Officer and in accordance with the Localism Act 2011 or other legislation.
- f. To monitor the use of dispensations.
- g. To appoint a Sub-Committee which will have delegated responsibility to consider investigation reports, in respect of Code of Conduct complaints, that are referred to it by the Monitoring Officer and conduct hearings into allegations that a Member or co-opted Member of the Council or Town/Parish Council has breached the relevant code of conduct.
- h. To overview the Council's whistle blowing policy.
- i. To review, monitor and consider reports from the Monitoring Officer.

#### 9.6 Human Resource Functions

To receive and consider reports relating to workforce policies and related performance.

Where there is a specific requirement a Sub Committee can be appointed which shall deal with disciplinary matters relating to relevant officers.

## 10 Article 10 – Area Committees and Forums

### 10.1 Area Committees and Forums

The Council may appoint area Committees as it sees fit if it is satisfied that to do so would ensure improved service delivery.

The Council will consult with relevant parish and town councils and the Chairperson of relevant parish meetings when considering whether and how to establish Area Committees. The Council has not currently established any area committees in the parished areas of the district.

In the unparished part of the district, the Council has established the Winchester Town Forum, which covers the unparished parts of the five District Wards in Winchester: St Barnabas, St Bartholomew, St Michael, St Paul and St Luke. The Forum is responsible for setting the precept subject to the Council's budget and policy framework and that of the S35 Town Account Revenue Budget and acting as a consultative and advisory body to the Council in a comparable way to parish and town councils in the rest of the district, except on regulatory matters where Town and Parish Councils are statutory consultees and ward Councillors are consulted in their own right. All 14 Councillors who represent the five wards listed are members of the Forum, full details are found at [Part 3.3](#)).

The Council may establish a Forum to include a Major Development Area Forum which can advise and make recommendations on relevant issues and where Stakeholders and members of the public can raise any general matters of interest and / or matters relating to the Forum.

The following paragraphs apply to any Area Committee, Major Development Area Forum the Council may establish and paragraphs 10.02, 10.03 and 10.05 to the Winchester Town Forum.

### 10.2 Conflicts of Interest

#### a. Membership and Overview or Scrutiny Committees

If an Overview and Scrutiny Committee is scrutinising specific decisions or actions taken in relation to the business of the Town forum, an area Committee, a Forum or Major Development Area Forum of which the Councillor concerned is a member, then the Councillor must consider whether they can speak or vote at the Overview and Scrutiny meeting, having regard to the Overview and Scrutiny Procedure Rules and the Council's Code of Conduct in the Constitution.

#### b. Membership of Planning Committee and Joint West of Waterlooville Major Development Area Planning Committee

If the Planning Committee or Joint West of Waterlooville Major Development Area Planning Committee are determining specific

applications discussed in relation to the business of the Town Forum, an area Committee, a Forum or Major Development Area Forum of which the Councillor concerned is a member, then the Councillor must consider whether they can speak or vote at the Planning Committee meeting, having regard to the relevant Planning Committees' procedure rules and the [Council's Code of Conduct](#) in the Constitution. in the Constitution.

c. Membership of Licensing and Regulation Committee

If the Licensing and Regulation Committee is determining specific applications discussed in relation to the business of the Town Forum, an area Committee, a Forum or Major Development Area Forum of which the Councillor concerned is a member, then the Councillor must consider whether they can speak or vote at the Licensing and Regulation Committee meeting, having regard to the Licensing and Regulation Committee procedure rules and the Council's Code of Conduct in the Constitution.

d. General Policy Reviews

Where the Overview or Scrutiny Committee, Planning Committee, Joint West of Waterlooville Major Development Area Planning Committee and the Licensing and Regulation Committee is reviewing policy generally, the councillor need not withdraw unless as a member they have been directly involved in the determination of the policy concerned.

10.3 Area Committees and Forums – Dissolution

The purpose of Area Committees and a Major Development Area Forum is to support development of a community. Area Committee and a Major Development Area Forum will continue until it is considered that adequate and appropriate governance is in place, taking into account the views of local ward councillors in the affected area. At least 6 months' notice will be given of the intention of the Council to disband the Area Committee and Major Development Area Forum.

10.4 Area Committees and Forums – Access to Information

Area Committees and Forums will comply with the [Access to Information Rules](#) in this Constitution.in this Constitution.

Agendas and notices for area Committee meetings to deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.5 Cabinet Members on Area Committees and Forums

A member of the Cabinet may serve on an area Committee and/or Major Development Area Forum if otherwise eligible to do so as a Councillor.

## 11 Article 11 – Joint Arrangements

### 11.1 Arrangements to Promote Well-being (under the power of general competence in chapter 1 of the Localism Act 2011)

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

- a. Enter into arrangements or agreements with any person or body.
- b. Co-operate with, or facilitate or co-ordinate the activities of, any person or body.
- c. Exercise on behalf of that person or body any functions of that person or body.

### 11.2 Joint Arrangements

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.

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

Except as set out below, the Leader or Cabinet may only appoint Cabinet Members to such a joint Committee and those Members need not reflect the political composition of the local authority as a whole.

The Leader or Cabinet may appoint members to a joint Committee from outside the Cabinet where the joint Committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint Committee any Councillor for a ward which is wholly or partly contained within the area.

Details of any joint arrangements, including any delegations to joint Committees, will be found in the Council's Scheme of Delegation in this Constitution.

### 11.3 Access to Information

The [Access to Information Rules](#) in this Constitution apply to these joint arrangements. in this Constitution apply to these joint arrangements.



If all the members of a joint Committee are members of the executive in each of the participating authorities, then its access to information regime is the same as that applied to the executive of the administering authority.

If the joint Committee contains Councillors not on the executive of any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 will apply.

#### 11.4 Delegation to and from other Local Authorities

Full Council may delegate non-executive functions to another local authority, or in certain circumstances, the executive of another local authority.

The Leader or Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

#### 11.5 Contracting Out

The Council, for non-executive functions, and the Leader or Cabinet for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the De-Regulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent, under usual contracting principals, provided there is no delegation of the Council's discretionary decision making, other than to the extent permitted by law.

## 12 Article 12 – Officers

### 12.1 Management Structure

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The division of responsibilities are set out in [Part 3.4](#).

### 12.2 Head of Paid Service, Monitoring Officer and Section 151 Officer

The Full Council must by law, appoint certain statutory officers. These are: the Head of Paid Service, the Section 151 Officer (the Chief Finance Officer), and the Monitoring Officer.

The Chief Executive is designated the Head of Paid Service.

Full Council, with regard to the advice of the Head of Paid Service, will designate suitably experienced and qualified members of staff to undertake the following two statutory posts:

- a. Section 151 Officer (under Section 151 of the Local Government Act 1972); and
- b. Monitoring Officer (under Section 5 of the Local Government and Housing Act 1989)

Such posts will have the functions described below. The duties of the Section 151 Officer and Monitoring Officer can be carried out by any deputies appointed by them or the Chief Executive.

### 12.3 Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is maintained and set out on the Council's website.

### 12.4 Functions of the Head of Paid Service

The functions of the Head of Paid Service are as follows:

- a. Discharge of functions by the Council – the Head of Paid Service will 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 and the organisation of officers.
- b. Restrictions on functions – the Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a suitably qualified accountant.

## 12.5 Functions of the Monitoring Officer

The functions of the Monitoring Officer are as follows:

- a. Maintaining the Constitution – the Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for Members, staff and the public.
- b. Ensuring lawfulness and fairness of decision making – after consulting with the Head of Paid Service and the Section 151 Officer, the Monitoring Officer will report to Full Council (or to 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 implemented until the report has been considered.
- c. Supporting the Audit and Governance Committee - the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct, through provision of support to the Audit and Governance Committee on matters within the Monitoring Officer's remit.
- d. Conducting investigations, the Monitoring Officer will conduct investigations into matters under the arrangements made in relation to the Code of Conduct.
- e. The Monitoring Officer will make relevant reports or recommendations in respect of the Code of Conduct to the Audit and Governance Committee's Sub-Committee relating to Standards.
- f. Proper Officer for Access to Information, the Monitoring Officer will ensure that the Cabinet's decisions, together with reason for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- g. Advising whether Cabinet decisions are within the policy and budget framework, the Monitoring Officer, in consultation with the S151 Officer in respect of the Budget, will advise whether decisions of the Cabinet are in accordance with the framework.
- h. 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.
- i. Providing advice, the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, policy and budget framework issues to all Councillors. Where in respect of financial impropriety and budget, this will be in consultation with the Section 151 Officer.
- j. Restrictions on post, the Monitoring Officer may not also hold the post of Section 151 Officer or the Head of Paid Service.

## 12.6 Functions of the Section 151 Officer

The functions of the Section 151 Officer are as follows:

- a. Ensuring lawfulness and financial prudence in decision making, – after consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to Full Council, or to Cabinet in relation to an executive function, and the Council's external audit 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 and the Executive Leadership Board, 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 with regard to the financial affairs of the Council, 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. Where in respect of policy matters, this will be in consultation with the Monitoring Officer.
- e. Give financial information - the Councils Section 151 Officer will provide its financial information to the media, members of the public and the community.

## 12.7 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 opinions sufficient to allow their duties to be performed.

## 12.8 Conduct

Officers will comply with the Employees Code of Conduct and the protocol on officer/member relations set out in this Constitution.

## 12.9 Employment

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

## 13 Article 13 – Decision Making

### 13.1 Responsibility for Decision Making

The Council will issue and keep up to date a record of which part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 13.2 Principles of Decision Making

Decisions of the Council will be made in accordance with the following principles:

- a. The actions must be proportionate to the desired outcome;
- b. After due consultation and the taking of professional advice from officers;
- c. With a respect for human rights;
- d. With a presumption in favour of openness;
- e. Natural justice (the principles and procedures that govern the adjudication of disputes between persons or organisations, chief among which are that the adjudication should be unbiased and given in good faith.);
- f. With clarity of aims and desired outcomes;
- g. In consideration of any alternative options; and
- h. Giving reasons for the decision and the proper recording of those reasons.

### 13.3 Types of Decisions

Decisions reserved to Full Council –

Decisions relating to the functions listed in this Constitution will be made by Full Council and not delegated.

#### a. Key decisions

A key decision is defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 as being an executive decision which is likely:

- (i) to result in the local authority incurring expenditure, which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or

(For Winchester City Council, the financial limit above which a decision is regarded as significant is £250,000 and above. For the avoidance of

doubt, it is any capital item or scheme/contract of £250,000 and above or anything with an annual revenue expenditure of £250,000 and above)

- (ii) To be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.

A decision taker may only make a key decision in accordance with the requirements of this Constitution, in particular, the [Cabinet Procedure Rules](#), [Access to Information Procedure Rules](#) and the [Officer Scheme of Delegation](#). Officer Scheme of Delegation.

#### b. Non-Key Decisions

Officers will usually take non-key executive decisions. A non-key decision is an executive decision that does not meet either criterion of a key decision as laid out above. These decisions are divided into significant operational decisions and administrative decisions.

#### c. Significant Operational (Non-Key) Decisions

This is a decision in relation to a Council or executive function which is not a key decision and results in one of the following:

- (i) Revenue expenditure or making savings (including the receipt or loss of income) between £100,000 and £250,000 per year;
- (ii) Capital expenditure (i.e. if they involve entering into new commitments and/or making savings) and/or contract awards of between £100,000 and £250,000.
- (iii) When, in the opinion of the Chief Executive, the Section 151 Officer or Monitoring Officer, a published record of the decision is required to provide openness and transparency.
- (iv) A significant decision should be recorded in order to comply with Regulation 13 (Recording of executive decisions made by individuals) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (No. 2089).

#### d. An Administrative Decision:

- (i) Is within an approved budget; and
- (ii) Is not in conflict with the Budget and Policy Framework or other approved policies approved by Full Council, and
- (iii) Does not raise new issues of policy

### 13.4 Decision making by Full Council

A meeting of Full Council will follow the [Council Meeting Procedure Rules](#) set out in this Constitution when considering any matter. set out in this Constitution when considering any matter.

### 13.5 Decision making by the Cabinet

Cabinet will follow the [Cabinet Procedure Rules](#) set out in this Constitution when considering any matter. set out in this Constitution when considering any matter.

### 13.6 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the [Overview and Scrutiny Procedure Rules](#) set out in this Constitution when considering any matter. set out in this Constitution when considering any matter.

### 13.7 Decision making by other Committees and Sub Committees

Other Council Committees and Sub-Committees will follow the Council Meeting Procedure Rules set out in this Constitution as they apply to them.

### 13.8 Decision making by Council bodies acting as tribunals

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

### 13.9 The Party Whip

The Party Whip means any instructions given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any committee, or the application of threat to apply any sanctions by the Group in respect of that Member should they speak or vote in any particular manner.

In particular, there shall be no Party Whip applied at meetings of:

- a. The Planning Committee;
- b. The Overview and Scrutiny Committees and any of its Sub-committees/working groups or panels;
- c. The Audit and Governance Committees, and any of its Sub-Committees;
- d. The Licensing and Regulation Committee, and any of its Sub Committees;

- e. Any other Committee, Sub-Committee, working group or panel where the committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.



## 14 Article 14 – Finance, Contracts and Legal Matters

### 14.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the [Financial Procedure Rules](#) set out in this Constitution. set out in this Constitution.

### 14.2 Contracts

Every contract made by the Council will comply with the [Contract Procedure Rules](#) and the [Financial Procedure Rules](#) as set out in this Constitution. as set out in this Constitution.

### 14.3 Legal Proceedings

The Service Lead - Legal or a suitably qualified Corporate Head of Service, or Strategic Director is authorised to institute, defend or participate in or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where it is considered that such action is necessary to protect the Council's interests.

### 14.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed, to include electronic signature where legislation provides, by the Service Lead - Legal or a suitably qualified Corporate Head of Service, or Strategic Director unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £10,000 entered into on behalf of the Council shall be made in writing. Such contracts must either be signed by at least two officers of the Council or made under the Common Seal of the Council attested by at least one authorised officer.

### 14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Service Lead - Legal. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents where the total value of the agreement is over £25,000 and/or in the opinion of the Service Lead - Legal should be sealed. The affixing of the Common Seal will be attested by the Service Lead - Legal or some other person authorised by them.

In addition to the Common Seal being attested by the officer(s) referred to above, documents of a ceremonial nature shall also, if appropriate, bear the signature of the Mayor and/or the Chief Executive.

## 15 Article 15 – Review and Revision of the Constitution

### 15.1 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and report to Members as appropriate.

### 15.2 Protocol for Monitoring and Reviewing the Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended, in order to better achieve the purposes, set out in Article 1. In undertaking this task, the Monitoring Officer may:

- a. Observe meetings of different parts of the member and officer structure.
- b. Undertake an audit trail of a sample of decisions.
- c. Record and analyse issues raised with them by members, officers, the public and other relevant stakeholders.
- d. Compare practices in this Council with those in other comparable authorities, or national examples of best practice.

### 15.3 Changes to the Constitution

Changes to this Constitution will only be approved at a meeting of the Full Council after consideration of any proposals by the Monitoring Officer save that there is set out below an exception to this requirement.

A vote at Full Council to change the Constitution should be passed by a simple majority of those present and voting.

The Monitoring Officer, in consultation with the Chief Executive, has delegated authority to amend any part of the Constitution where such amendment is:

- a. required to be made to comply with any legislative provisions; or
- b. make minor amendments to comply with changes to staffing structures, job descriptions or changes in terminology; or
- c. required to remove any inconsistency or ambiguity.

Implementation of such amendments will be decided by the Monitoring Officer in consultation with the Chief Executive and shall come into force with immediate effect. Such amendments shall be reported to Full Council on an annual basis.

### 15.4 Change from a Leader with Cabinet to a Mayoral Form of Executive

The Council must take reasonable steps to consult the local electors and other interested parties in the area if drawing up proposals. If any proposed new form of Executive involves an elected Mayor the Council must hold a referendum.

## 16 Article 16 – Suspension, Interpretation and the Publication of the Constitution

### 16.1 Suspension of the Constitution

#### a. Limit to Suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council, Cabinet or a Committee, to the extent permitted within those Rules and the law.

#### b. Procedure for Suspension

A motion to suspend any of the [Council Procedure Rules](#) will not 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 account of the purposes of the Constitution set out in [Article 1](#). The motion shall not be carried unless approved by at least one half of the members present and voting.

#### c. Rules capable of Suspension

The Council Procedure Rules, except those that are not subject to suspension as set out in the Rules, may be suspended in accordance with [Article 16](#).

### 16.2 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of Full Council shall not be challenged at any meeting of Full Council. Such interpretation will have regard to the purposes of this Constitution contained in [Article 1](#).

### 16.3 Publication

The Monitoring Officer will ensure that this Constitution is readily available to all, available for inspection at the Council's offices and published on the Council's website and kept up-to-date.

The Monitoring Officer will deliver an electronic copy of the Constitution to each Member of the Council upon delivery to them of that individual's acceptance of office on the Member first being elected to the Council.

## Part 3.1 - Responsibilities for Functions

### 1 Introduction

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, specify which functions are:

### 2 Council Functions

These cannot be the responsibility of the Leader and the Cabinet e.g. the Council's Policy Framework and Budget, and such local choice functions as are allocated to Full Council. These are set out in [Article 4, Part 2](#) of this Constitution.

### 3 Local Choice Functions

Those functions which the Council may delegate to the Leader and Cabinet or to the Council.

### 4 Executive Functions

All other functions save the above are executive functions. Decisions on these functions will be taken by the Leader unless they are delegated in accordance with this constitution or dealt with under joint arrangements.

Article 6 provides that the Leader may delegate responsibility for executive functions to the Cabinet, Committees, individual Cabinet members, a joint Committee with another local authority, executive of another local authority or officers.

### 5 The Local Choice Functions

Local authorities are required to ensure that all 'local choice functions' are allocated so that it is clear whether:

- a. They are the responsibility of the Council and/or its Committees, or
- b. They are the responsibility of the Cabinet, or
- c. They are, or are not, the responsibility of the Cabinet to a specified extent.
- d. The table below sets out that these functions will be the responsibility of the bodies set out in column two. In turn the decision-making body may delegate to the person or body specified in column three.

Function	Responsibility	Delegation of Function
1. Any function under a Local Act other than a function specified or referred to in Regulation 2 of Schedule 1 of SI 2000 No 2853 as amended.	Cabinet	Corporate Heads of Service within their areas of responsibility as defined within the Officer Scheme of Delegation
2. The determination of an appeal against any decision made by or on behalf of the authority.	Cabinet except Housing (Appeals) Committee (see <a href="#">Article 8</a> )	Unless there is a specific delegation to Committee
3. Any function relating to contaminated land.	Cabinet	The Strategic Director (Services)
4. The discharge of any function relating to control of pollution or management of air quality.	Cabinet	The Strategic Director (Services)
5. The service of an abatement notice in respect of a statutory nuisance.	Cabinet	The Strategic Director (Services)
6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Cabinet	None
7. The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Corporate Head of Regulatory Services
8. The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Corporate Head of Regulatory Services
9. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 (i) as to interests in land	Cabinet or Planning Committee	Corporate Head of Regulatory and Corporate Head of Services

<p>10. The obtaining of particulars of persons interested in land under Section 16 of the Local Government Act (Miscellaneous Provisions) Act 1976</p>	<p>Cabinet or Planning Committee</p>	<p>All Strategic Directors</p>
<p>11. The appointment of any individual:</p> <p>(a) to any office rather than an office in which they are employed by the Authority</p> <p>(b) to anybody other than the Authority or a Joint Committee of two or more authorities; or</p> <p>(c) To any Committee or Sub-Committee of such a body and the revocation of any such appointment</p>	<p>Cabinet</p>	<p>Chief Executive</p>
<p>12. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities</p>	<p>Cabinet</p>	<p>Chief Executive</p>



## **Part 3.2 - The Cabinet, its Committees and the Cabinet Member Structure**

- 1 Executive functions will be performed by the Cabinet. These functions will be grouped together in the form of areas of responsibility. The number and scope of which will be determined by the Leader.
- 2 The Leader will also allocate responsibility for the areas of responsibility among the individual Cabinet Members on an annual basis and shall have the ability to amend these in year as required. The Leader has allocated an area of responsibility to each Cabinet Member and allocated to each Cabinet Member responsibility for the discharge of functions set out below.
- 3 The Leader may exercise any of the functions delegated to individual Cabinet Member.
- 4 The Leader may delegate other functions not expressly set out herein to individual Cabinet Members provided they are the executive functions and provided due to notice of the exact terms of the delegation and the name of the Cabinet Member is lodged with the Monitoring Officer.
- 5 Cabinet
  - 5.1 The Cabinet will be collectively responsible for executive functions which are not otherwise delegated by the Leader.
  - 5.2 Set out below are the responsibility for executive functions to be exercised by Cabinet Committees or Joint Committees. These responsibilities are set out in the detailed Terms of Reference.
  - 5.3 Where the Terms of Reference of Cabinet Committees or Joint Committees overlap with the Cabinet Member's general powers of delegation, the executive decision is to be taken by the Cabinet Committee or Joint Committee.
  - 5.4 Therefore, the Cabinet Member's general powers of delegation are to be subject to, and subservient to, the Cabinet Committees and Joint Committees' specific Terms of Reference.
  - 5.5 Set out below also are responsibility for executive functions to be exercised by the Leader and Cabinet Members. The Leader or the Cabinet Member may refer the exercise of an executive function within an area of responsibility for a decision by the Cabinet.
- 6 Cabinet Advice on Council Functions
  - 6.1 The Cabinet has the following role in advising the Council on the following matters;

- a. The making of Council Procedure Rules in accordance with Section 106 and para 42 Schedule 12 of the Local Government Act 1972.
- b. The making of Contract Procedure Rules in accordance with Section 135 of the Local Government Act 1972.
- c. The preparation and adoption of local development documents which are development plan documents, and matters concerning the establishment, functions and dissolution of a joint Committee under Sections 29, 30 and 31 of the Planning Compulsory Purchase Act 2004.

## 7 Cabinet Committees

- 7.1 The Cabinet can establish Cabinet Committees with specific terms of reference. Subject to any alterations within the discretion of the Leader these Committees will exercise executive functions within their terms of reference. They may delegate further to a Sub-Committee, an Area Committee (if any) via joint arrangements or to an officer.
- 7.2 The Cabinet has currently established three Cabinet Committees: Cabinet Committee Housing, Cabinet Committee Regeneration and Cabinet Committee Local plan.
- 7.3 The Monitoring Officer has the discretion to determine which of the Overview and Scrutiny Committees or Cabinet Committees are appropriate for pre-scrutiny and decision-making purposes.
- 7.4 Deputies for the Cabinet Committees will be appointed at the Chairperson's discretion.
- 7.5 In the absence of the relevant Cabinet Member, any Cabinet Member can act as Chairperson for Meetings of Cabinet to include Cabinet Member Decision Days.

## 8 Cabinet Committee: Regeneration

### 8.1 Membership

- a. The Committee's membership will be the Leader and Cabinet Member for Regeneration (Chairperson), plus 3 other Cabinet members (4 voting members).
- b. In the event of any member of Cabinet not being available for a meeting of the Cabinet Committee another member of Cabinet may deputise where no conflict arises.
- c. In addition, 4 other members will be invited to attend and offer views at meetings of the Committee (4 non-voting members).

## 8.2 Delegated Matters

- a. To oversee the Regeneration projects of the Council and to ensure that the objectives established by Cabinet are met, and in particular:
  - (i) to exercise those financial management and procurement powers of Cabinet set out below in respect of the major regeneration projects;
  - (ii) to agree the Project Plan and monitor progress of the project against that Plan including key milestones;
  - (iii) to agree progression to the next stages of design as set out in the Project Plan;
  - (iv) to ensure effective actions are in place to address key risks;
  - (v) to consider and agree methods of consultation and engagement;
  - (vi) to consider and agree a communication strategy;
  - (vii) to approve, where applicable, the Outline, Strategic and Full Business Cases;
- b. To exercise the powers of Cabinet under the [Financial Procedure Rules](#) in respect of each regeneration project. in respect of each regeneration project.
- c. To exercise the following powers of Cabinet under the [Contract Procedure Rules](#) in relation to the procurement of contracts for works, goods, software or services in connection with the Project:-
  - (i) approval of price/quality evaluation criteria;
  - (ii) approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from Contract Procedure Rules;
  - (iii) award of Contract.
- d. To consider and approve the submission of any planning applications to the council as Local Planning Authority to take forward the Project.
- e. To agree any land disposals (including, sales, leases and grants of easements) at best consideration or where the undervalue does not exceed £100,000, to take forward the Project.
- f. To agree any land acquisitions (including acquisitions of freehold/leasehold land, and easements) to take the Project forward, within the budget allowed for the Project.

## 8.3 Referred Matters

To advise Cabinet on:

- a. Any proposals in which the limitations set out above in the Delegated Matters would be exceeded or where risks are considered needed to be raised with Cabinet.

To advise Cabinet and Council on:

- a. Approval of a capital or revenue virement or supplementary capital or revenue estimate over £250,000.
- b. Any other matter as considered appropriate by the Cabinet Committee

The quorum is 2 voting members.

## 9 Cabinet Committee: Housing

### 9.1 Membership

- a. The Committee's membership will be the Cabinet Member for Community and Housing (Chairperson), plus 2 other Cabinet members (3 voting members).
- b. In the event of any member of Cabinet not being available for a meeting of the Cabinet Committee another member of Cabinet may deputise where no conflict arises.
- c. In addition, it is proposed that the following be invited to attend and offer views at meetings of the Committee (non-voting):
  - (i) Four other members: and
  - (ii) Two TACT representatives plus one deputy

### 9.2 Terms of Reference

- a. To exercise the executive functions set out below in relation to the Housing Revenue Account and Strategic Housing Services.
- b. To oversee the Council's Housing revenue account business plan including the agreed affordable housing development programme and to ensure the programme achieves appropriate levels of quality and quantity of housing within the policy and budget framework approved by Council.
- c. To monitor and oversee the Council's Housing and Homelessness strategies and the delivery of associated action plans.

### 9.3 Referred Matters

To advise Cabinet on:

- a. Approving the annual Business Plan for the wholly owned Housing Company.
- b. Any other shareholder agreement reserved matter decision.

#### 9.4 Delegated Matters

- a. Approving or adopting the policy and budget framework contained in the Council Plan, the, Housing Strategy and Annual Housing Revenue Account budget and Business Plan.
- b. To advise on any changes required to the policy and budget framework to take account of new legislation.
- c. Whether to approve or modify the policy and budget framework for the Council's 10 year Housing Development Programme and the associated funding requirements from both the Housing Revenue Account and General Fund, which will be kept under regular review.
- d. Whether to make changes to the Housing Development policy and budget framework to take account of new legislation or changes to the Housing Revenue Account Business Plan.
- e. The operation and performance of wholly or partly Council owned companies/trading vehicles established to manage housing provision in the Winchester district.
- f. The detailed list of individual schemes within the Council's 10 year Housing Development Programme and to keep the Programme under regular review recommending the addition or deletion of schemes.
- g. Whether to approve or modify the Council's New Homes Development Strategy and Council House design requirements.
- h. The rental policy for properties provided under the Housing Development Programme.
- i. Housing programmes that contribute to the Council's Carbon Neutrality commitments.
- j. Any proposals in which the limitations set out below in the Delegated Matters would be exceeded.
- k. The implementation of approved policies and programmes in accordance with policy and budget framework approved by Cabinet and/or Council, subject to such budgetary and other constraints that Cabinet and/or Council may impose.
- l. Housing Acts including the provision, allocation, improvement, repair, maintenance and management of dwellings and land.
- m. To agree and authorise any matters in relation to schemes within the 10 year Housing Development Programme which are in accordance with the policy and budget framework approved by Cabinet and/or Council, subject to such budgetary and other constraints set out below or that Cabinet and/or Council may impose.

- n. To agree changes to the timetable or scheduling of works within the approved 10 year Housing Development Programme or in cases of urgency substituting new schemes in place of schemes that will no longer come forward providing such schemes comply with the agreed Value for Money criteria for appraisals and the capital and revenue costs can be met within approved Housing Revenue Account or General Fund budgets, and within the Council's approved Prudential Indicators.
- o. Exercising the powers of Cabinet under the [Financial Procedure Rules](#) in respect of the Housing Revenue Account. in respect of the Housing Revenue Account.
- p. Exercising the powers of Cabinet under the [Contract Procedure Rules](#) in relation to procurement contracts for works, goods, software or services up to a value of £2,000,000 or £200,000 per annum, whichever is the greater: or services up to a value of £2,000,000 or £200,000 per annum, whichever is the greater:
  - (i) Approval of price/quality evaluation criteria
  - (ii) Approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from [Contract Procedure Rules](#);;
  - (iii) Award of Contract;
  - (iv) Approval of schemes under Financial Procedure Rule 6.4 – authority to release expenditure for capital schemes;
  - (v) Approval of final cost for capital schemes under [Financial Procedure Rule 7.4](#).
- q. To agree any land disposals at best consideration or where the undervalue does not exceed £100,000. To agree any disposals at less than best consideration where the undervalue does not exceed £250,000 provided the matter is not called-in for review by The Scrutiny Committee.
- r. To review and monitor the Council's performance and use of resources in the above areas, including but not restricted to the implementation of change plans, performance against national and local performance indicators, and identification of risks and action taken to mitigate those risks.

The quorum is 2 voting members.

## 10 Cabinet Committee: Local Plan

### 10.1 Membership

- a. The Committee's membership will be the Cabinet Member for Place and the Local Plan (Chairperson), plus 2 other Cabinet members (3 voting members).

- b. In the event of any member of Cabinet not being available for a meeting of the Cabinet Committee another member of Cabinet may deputise where no conflict arises.
- c. In addition, 5 members will be invited to attend and offer views at meetings of the Committee (5 non-voting members):

## 10.2 Terms of Reference

- a. To oversee the Council's development of the Local Plan and to ensure the programme to deliver the plan is timely and within the policy and budget framework approved by Council.
- b. To monitor and oversee the Council's Local Plan strategies and the delivery of associated documents relating to policy options, draft policies and evidence prepared to support the Local Plan.
- c. To exercise the executive functions set out below in relation to Strategic Planning Services and the Local Plan
- d. To make recommendations as required to Cabinet and Council.

## 10.3 Delegated Matters

- a. To oversee the development of the Local Plan of the Council and to ensure that the objectives established by Cabinet are met, and in particular:
  - (i) to exercise those financial management and procurement powers of Cabinet set out below in respect of the production of the Local Plan
  - (ii) to agree the Project Plan and monitor progress of the project against that Plan including key milestones;
  - (iii) to agree progression to the next stages of delivery as set out in the Project Plan;
  - (iv) to ensure effective actions are in place to address key risks;
  - (v) to consider and agree methods of consultation and engagement;
  - (vi) to review the Local Plan under development.
- b. To exercise the powers of Cabinet under the [Financial Procedure Rules](#) in respect of the production of technical reports and advice for the Local Plan in respect of the production of technical reports and advice for the Local Plan
- c. To exercise the following powers of Cabinet under the [Contract Procedure Rules](#) in relation to the procurement of contracts for works, goods, software or services in connection with the Project:
  - (i) approval of price/quality evaluation criteria;

- (ii) approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from [Contract Procedure Rules](#);;
- (iii) award of Contract.

#### 10.4 Referred Matters

To advise Cabinet on:

- a. Any proposals in which the limitations set out above in the Delegated Matters would be exceeded or where risks are considered necessary to be raised with Cabinet.

To advise Cabinet and Council on:

- a. Approval of a revenue virement or supplementary revenue estimate over £250,000.
- b. Any matters of policy that need to be brought to their attention.
- c. Any other matter as considered appropriate by the Cabinet Committee.

The quorum is 2 voting members.

Cabinet Members areas of responsibility are appointed by the Leader

### 11 General Powers Granted to Cabinet Members

#### 11.1 The following responsibilities have been delegated to each individual Cabinet Member to exercise within their portfolio and service area:

- a. To exercise the Executive powers and duties of the Council for strategic development, policy direction, partnership working, executive powers including key decisions, programme and performance management, in accordance with the Council's procedure rules for their area of responsibility;
- b. To be responsible for ensuring the successful delivery of business transformation in relation to their areas of responsibility;
- c. To request the Overview & Scrutiny Committee review changes to policy and strategy within their areas of responsibility;
- d. To have oversight of budget planning and monitoring in their service area;
- e. To act as the Council's lead spokesperson on strategic bodies for their areas of responsibility;
- f. To determine priorities in conjunction with the relevant member of the Council's management team and other Cabinet Members (within the policy and budget framework);



- g. To make proposals for policy initiatives, within the policy and budget framework, and for the amendment of such framework subject to the agreement of the Cabinet and Council;
- h. To recommend to the Cabinet responses to reports from the Overview & Scrutiny and Audit and Governance Committees;
- i. To agree minor matters and non-material amendments to policy;
- j. To approve grant funding allocations to third parties within approved budgets for this purpose;
- k. To approve all in-year changes to fees and charges;
- l. The Cabinet Member for Community and Engagement has delegated authority to approve all community safety partnership strategies under the Crime and Disorder Act or other related legislation.

11.2 Decisions delegated to Cabinet Members may be taken at Cabinet Member Decision Days, as set out in the [Cabinet Procedure Rules](#) (Part 4.2 of the Council's Constitution) and in accordance with the [Access to Information Procedure Rules](#).

## 12 The Leader

12.1 The Leader may delegate other functions not expressly set out herein to individual Cabinet Members provided they are executive functions and provided that due notice of the exact terms of the delegation and the name of the Executive Member is lodged with the Monitoring Officer.

12.2 Where the individual Cabinet Members general delegated authorities and the Cabinet Committee's specific Terms of Reference overlap then the executive decisions will be made by the Cabinet Committee unless the Leader determines otherwise.

## **Part 3.3 - The Regulatory Committees and Other Non-Executive Decision Making Committees**

Where any delegation under this part of the Constitution refers to specific legislation or regulations it includes a reference to that legislation or those regulations as re-enacted, consolidated, modified or amended.

### **1 Planning Committee**

#### **1.1 Terms of Reference**

All functions relating to Town and Country Planning and Development Management (excluding the preparation of plans and policies) as specified in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended by subsequent regulations including:

- a. Planning applications
- b. Enforcement action
- c. Planning agreements
- d. Lawful use or development
- e. Advertisement control
- f. Listed buildings
- g. Conservation areas
- h. Footpaths and highways
- i. Waste matters
- j. Hazardous substances
- k. Trees and hedgerows

1.2 The consideration and determination of matters arising from Part 8 of the Anti-Social Behaviour Act 2003 relating to complaints about high hedges.

1.3 Making recommendations to Council, implement and keep under review a Scheme of Delegation of Functions to Officers in respect of any of the functions delegated to the Committee.

- 1.4 The Committee's general remit does not extend to those parts of the district within the South Downs National Park and/or where delegation arrangements have been made with the National Park Authority.
- 1.5 Certain applications within the West of Waterlooville Major Development Area are normally dealt with by the Joint West of Waterlooville MDA Planning Committee, as detailed in Appendix A to Section 5 below. Accordingly, save where an application is referred back to the Planning Committee in accordance with the Terms of Reference of the Joint West of Waterlooville MDA Planning Committee, such applications will usually be dealt with by the Joint Committee.
- 1.6 Membership and meeting arrangements
  - a. The Committee, consisting of up to nine Members, will be appointed annually by the Council and will be politically balanced. There will also be up to two Deputy Members per group.
  - b. The Committee will meet in accordance with a schedule of ordinary meetings, although meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chairperson of the Committee.
- 1.7 Delegation of Function
  - a. The majority of the Committee's functions will be performed by officers, as set out in [Part 3](#) of the Constitution. These delegations are subject to any such delegation being consistent with the Development Plan, the National Planning Policy Framework and any other applicable Government Guidance and Statutory and customary consultations being carried out.
- 1.8 Procedure at meetings
  - a. Procedure at meetings shall be in accordance with the Council Meeting Procedure Rules, except as below:
    - (i) The Committee shall agree a scheme of public speaking arrangements.
    - (ii) The Committee shall have authority to depart from the arrangements above and determine specific arrangements for public speaking on certain applications, as it sees fit.
- 1.9 Joint West of Waterlooville Major Development Area (MDA) Planning Committee
  - a. The Joint Committee is established by Havant Borough Council and Winchester City Council and is composed of Members from Winchester City Council and Havant Borough Council. The area within which the Joint Committee is to exercise its authority is the West of Waterlooville Major

Development Area. The full constitution and terms of reference of the Joint Committee are set out in Section 5).

## 2 Licensing and Regulation Committee

### 2.1 Terms of Reference

2.2 The Licensing and Regulation Committee (in this Section 2 referred to as “the Committee”) may undertake or sub-delegate the Council’s regulatory functions relating to licensing and registration including:

- a. The Licensing Act 2003;
- b. The Gambling Act 2005;
- c. The Town Police Clauses Act 1847 (as it relates to hackney carriage taxi licensing)
- d. The Local Government (Miscellaneous Provisions) Act 1976 (as it relates to private hire licensing);
- e. Health and safety at work (for non- Council officers);
- f. Food premises;
- g. Scrap metal;
- h. Caravan Site Movable Dwelling and Camp Site Licensing
- i. Licensing Performances of Hypnotism
- j. Animal Welfare Licensing

The Committee will hear informal appeals against decisions to refuse applications, restrict licenses or impose conditions in excess of the standard licensing conditions.

### k. Charities/Street Collection Permits/Street Trading Consents

The Committee will hear informal appeals against refusals of applications and revocation of consents relating to Street Trading Consents.

### l. Certificates of Registration of Acupuncture, Tattooing, Electrolysis and Cosmetic Piercing

### m. All functions and powers relating to Smoke Free Legislation

### n. Public Spaces Protection Orders

The Committee will determine all applications to designate an area under Section 59 Anti-Social Behaviour, Crime and Policing Act 2014 to include the variation and revocation of Orders

o. Licences under Section 115(e) Highways Act 1980 (Tables and Chairs).

The Committee will hear informal appeals against refusal of applications.

p. The Setting of Relevant Fees and Charges

q. Local Choice Functions (as specified in Part 3 of the Constitution) unless the authority to determine the matter has been delegated to another Committee or an individual officer

The Committee may authorise a prosecution for any offence within the scope of its delegation.

2.3 Unless a matter is reserved for Committee or a Sub-Committee, under the paragraphs above, by law or by procedures in this Constitution, then the Strategic Director: Services is delegated to exercise all the licensing functions above.

2.4 Membership and meeting arrangements

a. The Committee shall consist of up to 11 Members (and up to 2 Deputy Members). It shall be appointed annually by the Council and shall be politically balanced.

2.5 Members appointed to the Committee will:

a. Be able to provide a sufficient, competent pool capable of carrying out the Committee's programme of work and anticipated number of Sub-Committee hearings for the forthcoming year;

b. Make themselves available to participate in the work of the Licensing Authority; and

c. Be required to undertake mandatory training on the functions and responsibilities of the Committee and its Sub-Committees.

2.6 Delegation of functions

2.7 The Committee's functions will be determined in line with Tables A, B, C and D of this part of the Constitution. The Committee or a Sub-Committee will consider:

a. Matters which the Council's policies dictate the Committee's involvement

b. Appeals being made against an officer's decision; and

c. Matters when an officer to whom a decision has been delegated chooses to put the matter before the Committee.

2.8 A Sub-Committee will consist of any three Members drawn from the full membership of the Committee and appointed for each occasion when it is

needed. All Members of the Committee should be given equal opportunities to sit on Sub-Committees subject to any prejudicial interest, following successful completion of the relevant training.

- 2.9 Applications made in respect of the Licensing Act 2003 will be brought before the Committee or a Sub-Committee in accordance with any regulations published under the Act, the guidance issued under section 182 of the Act and summarised in Table A below.
- 2.10 Applications made in respect of the Gambling Act 2005 will be brought before the Committee or a Sub-Committee in accordance with the Scheme of Delegation summarised in Table B below.
- 2.11 Applications made in respect of sex establishments will be brought before the Committee or a Sub-Committee in accordance with the Schedule of Delegation summarised in Table C attached.
- 2.12 Taxi and private hire licensing-related matters reserved for the Licensing and Regulation Committee, or a Sub-Committee of that Committee, in the Council's Licensing Points Record Scheme will be brought before the Committee or a Sub-Committee. All other taxi or private hire licensing matters have been delegated to the Service Lead: Public Protection, acting in consultation with the Chairperson of the Licensing and Regulation Committee (see Table D).
- 2.13 Procedure at meetings
  - a. Meetings of the Committee will be conducted in accordance with the [Council Procedure Rules](#).
- 2.14 Licensing Sub-Committee
  - a. To deal with applications under the Licensing Act 2003 allocated to the Licensing Sub-Committee in the following Tables A, B, C and D.
  - b. To deal with applications under the Gambling Act 2005 allocated to the Licensing Sub-Committee in the following Tables A, B, C and D.

TABLE A

Matter to be dealt with	Delegated to Licensing Sub Committee	Delegated to Officers
<ul style="list-style-type: none"> <li>• Application for personal licence with unspent convictions</li> <li>• Application to review premises licence/club premises certificate</li> <li>• Decision to object when local authority is a consultee and not the lead authority</li> <li>• Determination of a Hampshire Constabulary or Environmental Health representation to a temporary event notice</li> </ul>	All cases	
<ul style="list-style-type: none"> <li>• Application for personal licence</li> <li>• Application for premises licence/club premises certificate</li> <li>• Application for provisional Statement</li> <li>• Application to vary premises licence/club premises certificate</li> <li>• Application to vary designated premises supervisor</li> <li>• Application for transfer of premises licence</li> <li>• Applications for Interim Authorities</li> <li>• Determination of application for licence, or variation of licence, in respect of community premises: supervision of alcohol sales</li> </ul>	If a relevant representation made and not withdrawn	<ul style="list-style-type: none"> <li>• If no relevant representation made or</li> <li>• If representation made and withdrawn</li> </ul>
<ul style="list-style-type: none"> <li>• Request to be removed as designated premises supervisor</li> <li>• Decision on whether a complaint is irrelevant, frivolous or vexatious</li> <li>• Determinations of application for minor variation</li> <li>• Determination of relevance of representation</li> <li>• Exercise of Responsible Authority Functions of applications and notices submitted to the licensing authority under the Licensing Act 2003 (as amended by the Police and Social Responsibility Act 2011) in accordance with the regulations</li> <li>• In cases where the Magistrates Court has determined the licence on appeal</li> </ul>		All cases

TABLE B - Gambling Act 2005: Delegation of Functions

<b>GAMBLING ACT 2005 Summary of permitted licensing authority delegations</b>			
<b>Matter to be dealt with</b>	<b>Delegated to the Licensing Committee</b>	<b>Delegated to Sub Committee</b>	<b>Delegated to Officers</b>
Approval to recommend to Council <ul style="list-style-type: none"> <li>• the Statement of Principles (including substantive amendments)</li> <li>• policy not to permit casinos</li> </ul>	All cases		
<ul style="list-style-type: none"> <li>• Cancellation of club gaming/club machine permits</li> <li>• Review of a premises licence</li> <li>• Decision to give a counter notice to a temporary use notice</li> </ul>		All cases	
<ul style="list-style-type: none"> <li>• Application for premises licences</li> <li>• Application for a variation to a licence</li> <li>• Application for transfer of a licence</li> <li>• Application for a provisional statement</li> <li>• Application for club gaming/club machine permits</li> </ul>		If a relevant representation made and <b>not</b> withdrawn	<ul style="list-style-type: none"> <li>• If no relevant representation made or</li> <li>• If representation made and withdrawn</li> </ul>
<ul style="list-style-type: none"> <li>• Fee Setting (when appropriate)</li> <li>• Applications for other permits</li> <li>• Cancellation of licensed premises gaming machine permits</li> <li>• Consideration of temporary use notice</li> </ul>			All cases



TABLE C - Sex Establishments: Schedule of Delegated Authority

<b>Matter to be dealt with</b>	<b>Delegated to</b>
<p>Grant (First or New) of an application for any type of Sex Establishment Licence</p>	<p>The Sub-Committee*</p> <ul style="list-style-type: none"> <li>• if a relevant objection received and not withdrawn and/or</li> <li>• if officers have concerns in respect of the application or characteristics of the locality</li> </ul> <p>Officers in all other cases</p>
<p>Refusal of an application for the <i>grant, renewal or transfer</i> of any type of Sex Establishment Licence on the grounds that:</p> <ul style="list-style-type: none"> <li>• the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason</li> <li>• if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, reviewed or transfer of such a licence if they made the application themselves</li> </ul> <p>Refusal of an Application for <i>the grant or renewal</i> of any type of Sex Establishment Licence on the grounds that:</p> <ul style="list-style-type: none"> <li>• the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality</li> <li>• the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality; or to the use to which any premises in the vicinity are put; or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made</li> </ul> <p>Refusal of an Application for the <i>variation</i> of the terms, conditions or restrictions on/or subject to which the licence is held for any type of Sex Establishment Licence</p>	<p>The Sub-Committee* in all cases</p>
<p><i>Matters ordinarily delegated to a Sub-Committee may be referred to the Licensing and Regulation Committee at the discretion of the Service Lead: Public Protection after consultation with the Chairperson and/or Vice-Chairperson of the Licensing and Regulation Committee</i></p>	

<p>Decision on whether an objection is frivolous or vexatious</p> <p>Decision on whether an objection is relevant</p> <p>Refusal of an Application for <i>the grant</i> of any type of Sex Establishment Licence on the grounds that the Applicant is:</p> <ul style="list-style-type: none"> <li>• under the age of 18</li> <li>• for the time being disqualified from holding a licence following revocation of such a licence</li> <li>• a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made</li> <li>• a body corporate which is not incorporated in an EEA state</li> <li>• a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is a like application.</li> </ul>	<p>Officers in all cases</p>
<p><i>*Although matters will normally be referred to a Sub-Committee for determination, they may be referred to the full Committee at the discretion of the Service Lead: Public Protection, after consultation with the Chairperson and/or Vice-Chairperson</i></p>	

TABLE D

<b>TOWN POLICE CLAUSES ACT 1847 &amp; LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 Summary of permitted licensing authority delegations</b>		
<b>Matter to be dealt with</b>	<b>Delegated to the Licensing and Regulation Committee</b>	<b>Delegated to the Sub Committee</b>
<ul style="list-style-type: none"> <li>• Approve 'standard' conditions of licence</li> <li>• Approval to recommend to Cabinet or Cabinet Member               <ul style="list-style-type: none"> <li>○ Power to set hackney carriage fares</li> <li>○ Power to create hackney carriage stands</li> <li>○ Hackney Carriage and Private Hire Policy</li> </ul> </li> </ul>	All cases	
<ul style="list-style-type: none"> <li>• To consider appeals by applicants against a decision of the Service Lead: Public Protection in respect of an application for such a licence</li> </ul>		All cases
<ul style="list-style-type: none"> <li>• To consider cases involving the behaviour or suitability of the holder of, or applicant for, a licence</li> <li>• To suspend or revoke an existing licence, or refuse an application for such a licence</li> <li>• Decision on matter which may require the issue of penalty points</li> </ul>		Where referred by the Service Lead: Public Protection

### 3 Housing (Appeals) Committee

3.1 To hear and determine the following matters where they do not fall, or are not decided, within the scheme of delegation to officers:

- a. Specific cases in respect of either public or private sector housing referred by the Corporate Head of Housing or where a specific request for consideration has been made by a Member of the Council;
- b. Where housing applicants wish to appeal against the decision to suspend their application for a period of one year;
- c. To determine appeals in respect of discretionary housing payments;

(Note: A general protocol operates whereby the relevant Ward Member(s) will be invited to attend the Committee and have the right to address the meeting on particular cases).

#### 4 Winchester Town Forum

4.1 To consider the draft capital and Revenue Budget for the S35 Town Account each year and to make recommendations to Cabinet and Council.

4.2 Within the Council's Budget and Policy framework and the framework of the S35 Town Account Revenue Budget:

- a. To incur expenditure;
- b. To set fees and charges;
- c. To make decisions in connection with the operation or management of property or facilities;
- d. To make arrangements for special events;
- e. To scrutinise budget and other performance monitoring reports;
- f. To authorise incurring expenditure up to a limit of £50,000 on Town Account capital schemes within the approved capital programme under [Financial Procedure Rule 7.4](#).
- g. To authorise virement of a sum of £25,000 or less in total in any one year between budget heads subject to:
  - (i) The virement being in respect of a budget within the S35 Town Account and that the base budget is not increased; and
  - (ii) Where in the opinion of the Section 151 Officer the provisions of the Council's [Financial Procedure Rules](#) (Rules 8.4 (a) to (d) and 8.5) on virement are met.
- h. To consider the programme of schemes within the Town Wards to be funded from the Open Spaces Fund each year, including any other funds specifically allocated to the programme of schemes within the Town Wards, particularly the Community Infrastructure Levy (CIL), and to make recommendations to Cabinet and the Cabinet Member.
- i. To act as a consultative and advisory body regarding issues affecting the five Winchester Town District Wards which, on occasions, may also include 'cross-boundary' matters involving adjoining areas that will have an impact in the town area.

- j. Council officers shall ensure that the Town Forum is consulted on local and cross-boundary matters on the same basis as Parish Councils and Town Councils, except on regulatory matters, in particular planning or licensing applications, where Parish Councils and Town Councils are statutory consultees and ward Councillors are consulted in their own right.
- k. To forward any recommendations for action principally to Cabinet, but also to one of the regulatory Committees and/or Council when appropriate.
- l. To promote community engagement and discussion within the Town Wards by undertaking consultation exercises or encouraging the formation of community groups.
- m. To collaborate with neighbouring Parish and Town Councils on items of common interest.

PROVIDED THAT these provisions shall not be exercised on behalf of any parished areas, such as that part of St Barnabas Ward that is within the Parish of Littleton and Harestock (Harestock Parish Ward).

## 5 Joint West of Waterlooville Major Development Area (MDA) Planning Committee

### 5.1 Establishment of the Joint Committee

- a. There shall be constituted under the provisions of Section 101(5) and Section 102 of the Local Government Act 1972 a Joint Committee to be known as the “West of Waterlooville Major Development Area Joint Planning Committee”.

### 5.2 The Joint Committee is established by Havant Borough Council and Winchester City Council.

- a. The area within which the Joint Committee is to exercise its authority is the West of Waterlooville Major Development Area, as shown on the plan attached as Appendix A.
- b. This Constitution sets out how the Joint Committee will operate and how decisions are made.

### 5.3 Functions Delegated to the Joint Committee

- a. Subject to the remaining provisions of this Clause 2, the following functions shall be delegated to the Joint Committee insofar as they relate to matters within the West of Waterlooville Major Development Area:

Power to determine applications for planning permission (including applications for reserved matters).
Power to determine applications to develop land without compliance with conditions previously attached.
Power to grant planning permission for development already carried out.
Duties relating to the making of determinations of planning applications.
Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
Power to enter into agreement regulating development or use of land.

The delegation includes all the powers necessary to facilitate, or otherwise incidental or conducive to, the discharge of the functions of the Joint Committee.

- 5.4 The following functions shall be reserved to the appointing Authorities and shall not be within the powers of the Joint Committee:

Power to decline to determine application for planning permission.
Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
Power to issue a certificate of existing or proposed lawful use or development.
Power to serve a completion notice.
Power to grant consent for the display of advertisements.
Power to authorise entry onto land.
Power to require the discontinuance of a use of land.
Power to serve a planning contravention notice, breach of condition notice or stop notice.
Power to issue a temporary stop notice
Power to issue an enforcement notice.
Power to apply for an injunction restraining a breach of planning control.
Power to determine applications for hazardous substances consent, and related powers.
Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.

Power to require proper maintenance of land.
Power to determine application for listed building consent, and related powers.
Duties relating to applications for listed building.
Power to serve a building preservation notice, and related powers.
Power to issue listed building enforcement notices.
Powers to acquire a listed building in need of repair and to serve a repairs notice.
Power to apply for an injunction in relation to a listed building.
Power to execute urgent works.
Power to determine applications to fell or carry out works to trees that are the subject of a Tree Preservation Order

- 5.5 The Joint Committee shall not have authority to take any decision which is contrary to or not wholly in accordance with the budget approved by Havant Borough Council or Winchester City Council for the Joint Committee or is contrary to an approved policy or strategy of either of the authorities.
- 5.6 Save as expressly provided, the functions delegated to the Joint Committee shall not affect the schemes of delegations for officers for determining planning applications adopted by Winchester City Council and Havant Borough Council.
- 5.7 Membership and Appointment of the Joint Committee
- a. The Joint Committee shall comprise nine Members, being five Members from Winchester City Council and four from Havant Borough Council. Each appointing Authority shall, unless there are overriding reasons to the contrary, appoint to the Joint Committee the Chairperson of their Committee responsible for planning matters.
  - b. Each Authority may appoint deputies to act for the appointed Members of the Joint Committee. Where the appointed Member is unable to attend a meeting of the Joint Committee, their Deputy may attend and carry out their responsibilities, including voting in their absence.
- 5.8 Quorum
- a. The quorum for a meeting of the Joint Committee shall be four Members, with at least one Member from each Authority.
- 5.9 Chairperson and Vice-Chairperson of the Joint Committee

- a. The Chairperson of the Joint Committee shall be the Chairperson of the Planning Development Control Committee of Winchester City Council.
- b. The Vice-Chairperson of the Joint Committee shall be the Chairperson of the Development Management Control Committee of Havant Borough Council.

#### 5.10 Secretary to the Joint Committee

- a. The Joint Committee shall be supported by the Secretary to the Joint Committee.

5.11 The Secretary of the Joint Committee shall be an officer of one of the appointing Authorities, appointed by the Joint Committee for this purpose.

5.12 The functions of the Secretary of the Joint Committee shall be:

- a. To maintain a record of membership of the Joint Committee;
- b. To summon meetings of the Joint Committee;
- c. To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairperson and the Vice-Chairperson of the Joint Committee;
- d. To keep a record of the proceedings of the Joint Committee;
- e. To take such administrative action as may be necessary to give effect to decisions of the Joint Committee;

5.13 Convening of Meetings of the Joint Committee

- a. Meetings of the Joint Committee shall be held at such times, dates and places as may be notified to the members of the Joint Committee by the Secretary to the Joint Committee.

5.14 Procedure at Meetings of the Joint Committee

- a. The Joint Committee shall, unless the member of the Joint Committee presiding at a meeting or the Joint Committee determines otherwise, conduct its business in accordance with the Constitution of Winchester City Council, except in so far as may be specified to the contrary in this Constitution.

5.15 The Chairperson of the Joint Committee, or in their absence the Vice-Chairperson of the Joint Committee, or in their absence the member of the Joint Committee elected for this purpose, shall preside at any meeting of the Joint Committee.

5.16 Subject to Paragraph 5.17, decisions shall be decided by a majority of the votes of the members present and voting.

5.17 The Chairperson shall have a second or casting vote.

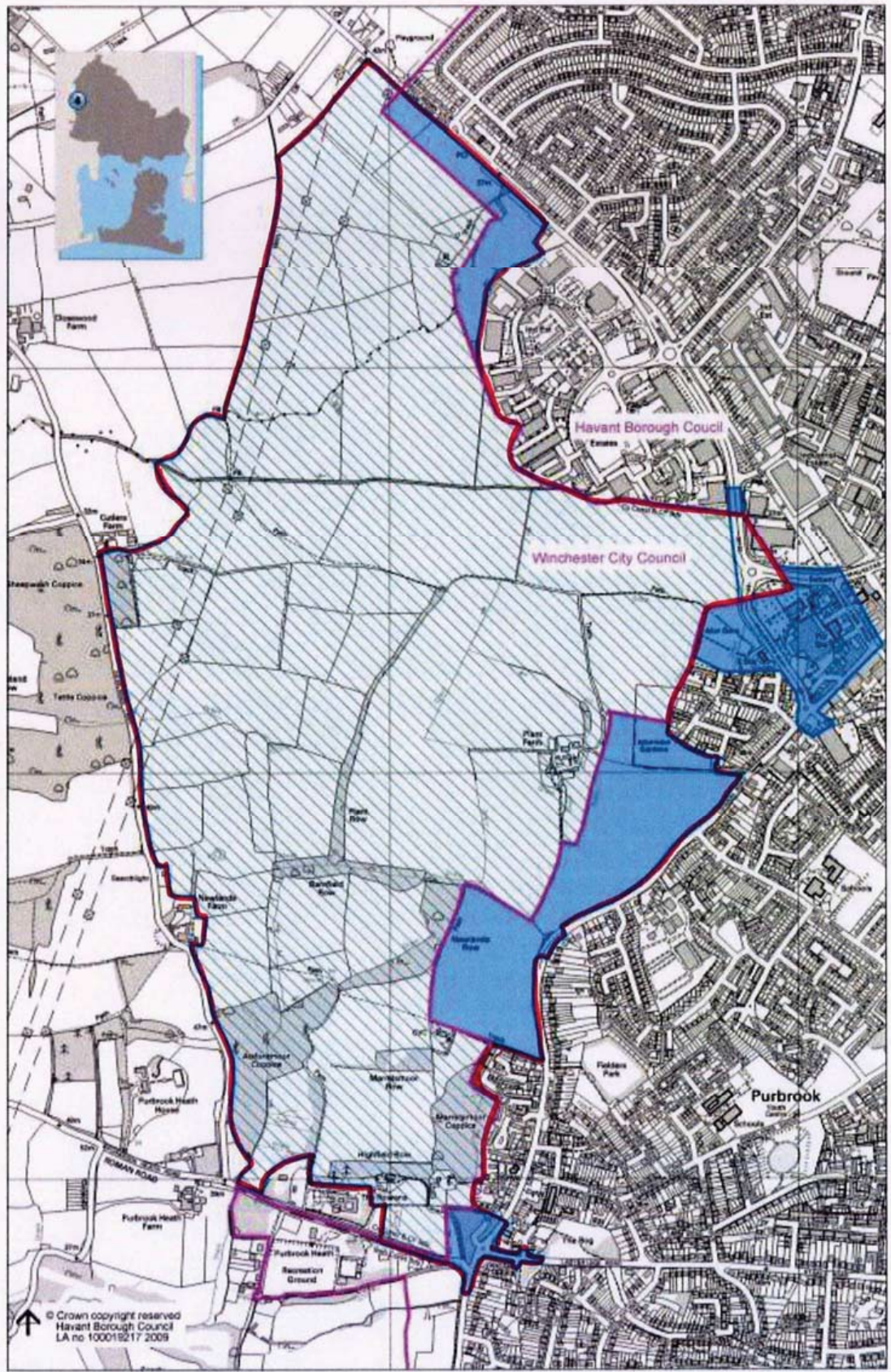


5.18 Where, immediately following the taking of a decision, at least two members of the Joint Committee indicate that the decision should be referred back and made by the relevant local planning authority(ies) for the application; the matter shall stand referred to the appropriate local planning authorities for determination.

5.19 Amendment of this Constitution

- a. This constitution can only be amended by resolution of all appointing Authorities.

Appendix A - Waterlooville MDA



Site 4 in Havant Borough Core Strategy       MDA Boundary       Land in Havant Borough

## 6 Appointments Panel

- 6.1 The membership of the Appointments Panel will be comprised of Leader, deputy Leader, Leader of the opposition and deputy Leader of the principal opposition as well as a member of the Audit & Governance Committee.

## Part 3.4 - The Scheme of Delegation to Officers

This section of the Constitution sets out the overall Scheme of Delegation to Officers.

### 1 Delegations Functions

- 1.1 This Scheme has been agreed by the Full Council and by the Leader of the Council and authorises officers of the Council subject to the limitations and reservations of this Scheme to:
  - a. Exercise the Council's functions, powers and duties (both Executive and non-Executive) which relate to their areas of responsibility described in the Scheme or amended subsequently by authority of the Chief Executive or such authority delegated by the strategic directors.
  - b. Exercise functions specifically delegated to them either by the Leader (under the Local Government Act 2000 and Localism Act 2011 or subsequent amending legislation) or by the Council, a Committee or Sub-Committee (under Section 101 of the Local Government Act 1972).
- 1.2 The Council wants its officers to be empowered to manage the services entrusted to them. The Scheme is intended to be interpreted broadly and to empower its officers to manage the services entrusted to them. It is not subject to express annual approval by Full Council. The Scheme is to be treated as agreed by the Council when a resolution to adopt the amended Constitution is agreed. The Scheme shall remain in force, subject to any specific amendments or the adoption of a new Constitution or part thereof.

### 2 Member Consultation

- a. Where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member(s) or the relevant Committee Chairperson before exercising the delegated powers.
- b. An officer may at their discretion consult the appropriate Cabinet Member(s) or the appropriate Committee, or its Chairperson, before exercising delegated powers; or not exercise delegated powers but refer the matter to the Leader, the Cabinet or a Committee for a decision.
- c. In exercising delegated powers, officers will engage with ward Councillors on all significant matters that affect their wards.

### 3 Reservations

- 3.1 This Scheme does not delegate any function to an officer which:

- a. Is reserved by law to the Council, the Cabinet, the Leader of the Council, a Committee or Sub-Committee of the Council; and
  - b. Any matter which is specifically excluded from delegation by the Scheme or by resolution of the Council or Executive.
- 4 Chief Executive, Strategic Directors, Directors and Corporate Heads of Service/Heads of Programme Areas of Responsibility
  - 4.1 The delegations that follow apply to the Chief Executive, Strategic Directors, Directors, Corporate Heads of Service/Heads of Programme or their duly authorised officers. This includes all powers and duties under all legislation present and future in their described areas of responsibility and all powers and duties incidental to that legislation.
  - 4.2 The exercise of a delegated power, duty or function shall:
    - a. be subject to the City Council's Policy and budget Framework;
    - b. be subject to the requirements of the Constitution;
    - c. be subject to the requirements of the [Council Procedure Rules](#), [Financial Procedure Rules](#), [Contract Procedure Rules](#) and any delegations contained therein. Contract Procedure Rules and any delegations contained therein.
  - 4.3 An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:
    - a. such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;
    - b. such authorisations should only be given where there is significant administrative convenience in doing so:
    - c. the officer authorised by the other should act in the name of the officer who received the original delegation;
    - d. no authorisation may be given if the statute or law prohibits it.
  - 4.4 Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
  - 4.5 The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Service Lead Legal and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register before solely relying on this document. The Service Lead Legal shall have the power to amend this Register to reflect re-organisations, changes in job titles and

vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.

## 5 The Chief Executive

The list below comprises the statutory appointments attached to the Chief Executive post and the delegated powers and duties.

5.1 The Chief Executive has been appointed as the Council's Head of Paid Service and shall be provided by the authority with such resources as they deem necessary to perform that role. The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services.

5.2 The Chief Executive has been appointed as the Council's Electoral Registration and Returning Officer and to be responsible for the functions, staff and budget for elections and electoral registration and as such:

- a. shall appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.
- b. shall appoint Deputy Electoral Registration Officers
- c. shall undertake all functions and responsibilities for local, national, and any other elections, in accordance with UK legislation and regulations, save where otherwise provided including, but not limited to, the registration functions and duties (including varying the location of polling places where required; and
- d. shall have the authority to determine the fees and charges for local elections in accordance with the decision of the Hampshire and Isle of Wight Election Fees Working Party

5.3 The following powers and duties are delegated to the Chief Executive:

- a. To be responsible for the general management of the Council's workforce including but not limited to staffing, employment, terms and conditions and industrial relations save for those matters which have been delegated to Strategic Directors and Corporate Heads of Service/Heads of Programme and those matters relating to the Head of Paid Service and the chief officers.
- b. To alter the areas of responsibility of Strategic Directors and Corporate Heads of Service/Heads of Programme set out in the areas of responsibility in this Scheme and to act in the place of any officer having delegated authority under the Scheme as may be required by absence or any other reason to promote the efficient decision making of the Council.
- c. Power to act in person (or their nominee) in an emergency, in consultation with the Leader and relevant Cabinet Member or Committee Chairperson where practicable.

- d. Subject to reporting back to the Council or the Cabinet as soon as is practicable, power to act in matters of urgency and to take any decision which could be taken by the Council, the Cabinet or a Committee, as follows:
  - (i) Cabinet level action – in consultation with the relevant Cabinet Member where practicable (or, in their absence, the Leader);
  - (ii) Committee level action – in consultation with the relevant Chairperson where practicable
- e. To make Proper Officer appointments in cases of Interim Appointees, or in cases of urgency, subject to a report to Full Council where appropriate. In addition, in consultation with the Leader of the Council, to designate officers of the Council as the Section 151 Officer and the Monitoring Officer. This is subject to the procedures in the Constitution for reports to Full Council.
- f. The responsibility for risk management in liaison with the Section 151 Officer.
- g. Signing of key documents jointly with the Leader of the Council including the Annual Statement of Internal Control, Annual Governance Statement and Code of Corporate Governance.
- h. Power to add items to the agendas of any of the Overview and Scrutiny Committees without specific reference to Cabinet.

## 6 Strategic Directors

Strategic Directors have delegated authority from the Chief Executive as follows:

- 6.1 To carry out the role as Chief Executive and Head of Paid Service in their absence as nominated.
- 6.2 To make decisions necessary for the discharge of functions and to exercise the powers and duties relevant to their areas of responsibility (including the making of Key Decisions) allocated to them. This includes matters dealt with by them or their staff, except for matters specifically reserved to the Cabinet, Committees or Full Council. The allocation of responsibility for functions to any of these decision-making bodies does not limit a Strategic Director's authority unless this is stated to be the case or required by law.
- 6.3 To implement decisions of the Council, the Cabinet, and the Council's Committees and Sub-Committees in the discharge of the Council's functions.
- 6.4 To take operational, managerial or professional decisions relevant to their areas of responsibility as detailed in the table above and including but not limited to the following:

- a. Recommend whether to commence and defend legal proceedings on behalf of the Council, in consultation with the Service Lead - Legal and the Chief Executive.
  - b. Apply for planning permission and all other permissions or consents for development to be undertaken by the Council.
  - c. Deal with all matters relating to the recruitment, appointment, remuneration, honoraria, qualification, training, promotion, appraisal, and health and safety of, and the provision of welfare facilities to, all employees in their areas of responsibility.
  - d. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Service Lead.
  - e. Negotiate, approve, and award in consultation with the Strategic Director: Resources or their representative, any contract for the supply of goods and services or the execution of works to a third party in line with the Council's Procurement Rules and the [Financial Procedure Rules](#).
  - f. Award contracts in line with the [Council's Procurement Rules](#) and the [Financial Procedure Rules](#).
  - g. Make amendments to policies which have been approved by members which do not have a significant impact on the operation of the current policy.
  - h. Incur expenditure and collecting income, engaging and deploying staff, procuring other resources within or outside the Council.
- 6.5 To take all lawful action to deliver agreed strategies, plans and policies.
- 6.6 To take decisions the effect of which is to grant or withdraw a permission or licence, affect the rights of an individual, award a contract or incur expenditure relevant to their areas of responsibility.
- 6.7 Strategic Directors may authorise in writing other Council officers within their areas of responsibility to act in their name in operational, managerial or professional matters.
- 6.8 Strategic Directors and nominees must keep and publish a record of decisions taken to comply with the Access to Information Rules in this Constitution and any statutory requirements.
- 6.9 To respond to consultations and requests for submission from Government Departments, other local authorities, international, academic, research, business representatives and other bodies in respect of: provision and sharing of data and research initiatives; policies, strategies and plans; performance and partnership working.



- 6.10 Following consultation with the Service Leads Legal and Finance to submit bids for or tenders involving funding or assistance from central government, or from any other source (direct or indirect to the council itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation applies not only to existing regimes but also to any new schemes as yet not in place, is framed broadly and should apply in the same way).
- 6.11 To complete and submit expressions of interest, enter into and vary, research and development projects and associated partnerships within estimates, including seeking external funding or joining funding partnerships, providing the whole life cost of the project does not have an adverse impact on the council's financial position.
- 6.12 To undertake benchmarking, cost comparison consultation and all activities associated with Best Value and to take all actions necessary and expedient to ensure best professional practice and Best Value.
- 6.13 To take any consequential action necessary or expedient in respect of a bid or tender involving funding or assistance from central government, or from any other source.
- 6.14 Without limiting the scope of the authority given under this Scheme of Delegation the Officer is responsible for taking into account the implications of their decisions on the Council's policies and its legal obligations in relation to climate change and environmental sustainability, equality and diversity, human rights, freedom of information, safeguarding, risk management and crime and disorder.
- 6.15 The functions allocated to Strategic Directors under this Scheme of Delegation are those functions which fall within their areas of responsibility. All Strategic Directors can exercise the powers of other Strategic Directors if they are absent.
- 6.16 Some legislation requires or enables the Council to appoint a named or "proper officer" for particular purposes. A list of the proper officer functions and who is responsible for carrying them out is set out at the end of this scheme of delegation.

## 7 Specific Strategic Director Delegated Powers

### 7.1 Strategic Director: Resources

The Strategic Director Resources has the responsibility for the Service Lead - Legal.

## 7.2 The Service Lead – Legal has authorisation to:

- a. To provide or arrange for the provision of legal advice to the Council, shared services, partner bodies and organisations, etc including obtaining Counsel's opinion and instructing Counsel and/or external solicitors as appropriate either on a case by case, or in any other appropriate manner or form.
- b. Bring, defend or participate in all legal proceedings and appeals in all courts or tribunals or the like, and to represent the Council, settle or enforce or take steps to comply with a judgement in all such proceedings. This includes determining whether or not to exercise the Council's powers under Section 222 of the Local Government Act 1972 (general power of local authorities to prosecute or defend legal proceedings) and participating in all kinds of alternative dispute resolution.
- c. Instruct Counsel and external solicitors as appropriate.
- d. Prepare, sign and seal all documents, notices, consents, refusals, applications, certificates, determinations and decisions required to give effect to decisions of and on behalf of the Council or Cabinet.
- e. Sign all documents and notices on behalf of the Council in relation to any formal or legal proceedings.
- f. Give authorisation to other qualified persons, to prosecute or defend on behalf of the Council at Inquiries and participate in proceedings before the Magistrates or County Court.
- g. On behalf of the Council, to appear at Local Inquiries arising under the Town and Country Planning Acts and legislation relating to compulsory purchase.
- h. Affix the Common Seal of the Council.
- i. Administer the Members' Allowances Scheme.
- j. To determine applications for Lawful Development Certificates under Section 191 and Section 192 of the Town and Country Planning Act 1990 (see also powers delegated to the Corporate Head of Planning and Regulatory).
- k. To compile a Register of Delegated Powers and delegations are to be added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register. The Service Lead Legal shall have the power to amend this Register to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.

## 7.3 The Strategic Director Resources is the Monitoring Officer for the purposes of Section 5 Local Government and Housing Act 1989 and as a result is authorised to take all necessary actions and steps to fulfil their statutory duties. In addition, they are authorised to

- a. Maintain an up-to-date version of the Constitution and ensure that it is widely available.
  - b. Maintain a Register of Interests of Councillors and co-opted Members of the Council and ensure that this is widely available.
  - c. After consultation with the Head of Paid Service and Section 151 Officer, report to Full Council or 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, or may give, rise to maladministration.
  - d. Provide advice on the scope of powers and the authority to take decisions with the assistance, if needed, of the Service Lead - Legal.
  - e. Ensure that executive decisions, with the relevant background papers and reasons are made publicly available as soon as possible.
  - f. Contribute to the promotion of high standards of conduct through the provision of support to the Audit and Governance Committee and to all Councillors generally.
  - g. To have responsibility for the management of the complaints procedure relating to Councillors and the duties thereunder to be undertaken by the Monitoring Officer.
  - h. Agree a local resolution, if possible, to any maladministration complaints in consultation with the Chief Executive.
- 7.4 The Section 151 Officer reports to the Strategic Director Resources and as a result is authorised to take all necessary actions and steps to fulfil their statutory duties. In addition, they are authorised to:
- a. Undertake responsibility for the administration of the Council's financial affairs for the purposes of section 151 of the Local Government Act 1972 and who is obliged to report under section 114 of the Local Government Finance Act 1988 on unlawful expenditure, unlawful action likely to cause loss or deficiency or an unlawful entry in the Council's accounts.
  - b. Manage the Collection Fund.
  - c. Administer the Council's Treasury Management function; write off debts in line with the Council's financial procedure rules.
  - d. Maintain an adequate and effective system of internal audit.
  - e. Maintain and develop the Council's risk management policy.
  - f. Carry forward to a future financial year any unspent one-off budget is delegated in full to the Section 151 Officer where satisfied that the proposals for spend in the following year is consistent with the relevant Council strategic policies.

## 7.5 Strategic Director: Services

The Strategic Director Services has responsibility for the Head of Asset Management.

## 7.6 Corporate Head of Asset Management has authorisation to:

- a. Grant all non-contentious leases, lease renewals, licences, tenancy, agree rent reviews for terms up to 125 years at rentals up to £200,000 a year exclusive;
- b. Purchase land required for highway schemes under the Highways Agency Agreement up to £10,000 in value subject to approval by the Cabinet or relevant Committee and the Hampshire County Council, and to the availability of finance;
- c. Purchase land up to £1,000,000 in value, subject to Cabinet or Committee approval having been obtained for the scheme and the availability of finance;
- d. Make disturbance payments up to £10,000;
- e. Authorise home loss payments complying with the provisions of the Land Compensation Act 1993 of 10% of the market value of the property, subject to the statutory minimum and maximum payments current at the time;
- f. Granting of easements up to £50,000 in value;
- g. Sell freehold reversions to the leaseholders;
- h. Give incidental approvals and consents under conveyances, transfers, leases and temporary lettings, to include variations, assignments, sub-lettings and Landlords' consent;
- i. Grant approvals and consents under conveyances, leases, agreements and temporary lettings of properties purchased for redevelopment;
- j. Accept dedications of land for the improvement or construction of highways on payment of surveyors' fees and any necessary accommodation works;
- k. Conduct of negotiations for the purchase of properties in mortgage hardship cases and the making of any necessary tenancy arrangements. In consultation with the Cabinet Member for Asset Management;
- l. Authorise non contentious sales up to £1,000,000 where approved in principle by Cabinet.

## 7.7 Strategic Director: Place

The Strategic Director Place has the responsibility for the Corporate Head of Planning and Regulatory

## 7.8 Corporate Head of Planning and Regulatory has authorisation to:

- a. Make decisions on any application falling within the remit of the Planning Committee except those in respect of applications for planning permission/listed building consent/works to a protected tree or advertisement consent where:
- (i) A Councillor requests that an application be referred to Committee by completing a standard form setting out material planning reasons and that the form be attached to the Committee report;
  - (ii) A relevant Parish Council registers a request that an application be referred to Committee, setting out material planning reasons in the request, but only where the Parish Council views are contrary to the intended decision of the officer;
  - (iii) The Corporate Head of Planning and Regulatory considers the application to be for significant development and intends to grant planning permission for the application;
  - (iv) The application is submitted by or on behalf of the Council, or includes Council-owned land, the Corporate Head of Planning and Regulatory intends to grant permission and one or more objections has been received;
  - (v) Six or more representations, which the Corporate Head of Planning and Regulatory considers relates to material planning considerations, are received from separate individual addresses within the Winchester City Council administrative area or within close proximity to the proposed development if outside and which are contrary to the intended decision of the officer.
  - (vi) (NB – for the purposes of this exception, a petition will be regarded as one representation, regardless of the fact that addresses may have been included as part of signing the petition – the Council’s petition procedure specifically excludes planning applications);
  - (vii) The application relates to a Member or relevant Officer of the Council (namely Executive Leaders Board members, Corporate Heads of Service/Heads of Programme, staff in the team structures of Corporate Head of Planning and Regulatory and other staff who advise on planning matters) in that the application:
    - Has been submitted by them or on their behalf; or
    - Affects land that they own or occupy; or
    - Is one where they have made representations of support or objection and where (in respect of Members only) that representation would constitute a personal and prejudicial interest.

(NB under the Council’s Planning Protocol all applications within this exception should be notified to the Corporate Head of Planning and Regulatory and Service Lead Legal).

7.9 All other functions within the remit of the Planning Committee, including but not limited to the following, shall be delegated but not limited to the Corporate Head of Planning and Regulatory (subject to any exceptions or conditions stated below):

- a. In consultation with the Chairperson of the Planning Committee (or in their absence, the Vice-Chairperson of the Committee) to determine any application which would fall within the general delegation under 1 above (notwithstanding the fact that one or more of the exemptions may have been triggered), in cases where it would not be reasonably practicable for the matter to be dealt with by the Planning Committee within any period prescribed for decision;
- b. The authority to make screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in connection with prospective or current applications;
- c. Authority to exercise the functions of the Council under the Conservation of Habitats and Species Regulations 2010 and 2017, including in relation to appropriate assessments;
- d. Authority to make decisions on Lawful Development Certificates under Section 191 and Section 192 of the Town and Country Planning Act 1990;
- e. Authority to respond to consultations and notifications from other local planning authorities;
- f. Authority to make immediate Article 4 Directions removing permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent amendments, in cases of urgency;
- g. Authority to make determinations as to whether prior approval is required under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent amendments;
- h. Authority to stop up or divert a public footpath under Section 257 of the Town and Country Planning Act 1990 or under Sections 118 or 119 of the Highways Act 1980.

7.10 The Corporate Head of Planning and Regulatory has the authority to exercise all of the above powers in respect of the South Downs National Park (in accordance with an agency agreement with the South Downs National Park Authority).

8 Directors, Corporate Heads of Service/Heads of Programme

8.1 Directors and each Corporate Head of Service/Head of Programme may exercise any of the following functions within their respective areas of responsibility. This includes further delegation of a function (unless

legislation/statute expressly requires a particular professional qualification to be held).

- 8.2 Expenditure within the approved revenue budget; entering into any necessary contracts for the supply of goods or services (subject to the provisions of [Contract Procedure Rules](#) and the [Finance Procedure Rules](#)); taking any necessary action to enforce or terminate such contracts in line with the any contract management guidance issued by the Service Lead – Transformation and Procurement.); taking any necessary action to enforce or terminate such contracts in line with the any contract management guidance issued by the Service Lead – Transformation and Procurement.
- 8.3 Implementation of requirements and procedures in relation to procurement of works, goods and services tendering including selection of contractor.
- 8.4 Decisions on applications for and cancellation of permits, licences or certificates of registration where all statutory requirements are satisfied, and in accordance with any policy of the Council in relation to the function concerned.  
  
(Note: the inclusion of references to specific types of permit, licence etc. in the list of delegations to individual directors is without prejudice to the generality of this item.)
- 8.5 To appoint officers/inspectors, to authorise or designate officers and such other persons as might be necessary for the purpose of performing the Council's statutory powers or duties, including to enter and inspect land or premises or to undertake investigations or to obtain information or samples.
- 8.6 Decisions in connection with the operation or management of property or facilities.
- 8.7 Carrying out minor development on Council owned land if specific expenditure is authorised.
- 8.8 Authority to make representations on behalf of the Council as a Responsible Authority under the Licensing Act 2003.
- 8.9 Following consultation with the relevant Cabinet Member, to agree changes to approved Cabinet Member Plans, provided that the amended Cabinet Member Plan will continue to deliver the Council's policy framework within the agreed budget.
- 8.10 On behalf of the Council, following consultation with the relevant Cabinet Member, to agree responses to consultation papers from government and/or regional and professional bodies and other agencies.

## **Part 4.1 - Council Meeting Procedure Rules**

### **1 Definition**

- 1.1 In these Rules, the following terms shall have the meanings assigned to them:
- a. "Committee" - a Committee authorised to exercise non-executive decision-making powers under Section 101 of the Local Government Act 1972, or an Overview and Scrutiny Committee established under Section 21 of the Local Government Act 2000.
  - b. "Political group" - a political group as defined in the Local Government (Committee and Political Groups) Regulations 1990 (as amended). For clarification a political group will need to comprise of two or more members.

### **2 Suspension**

- 2.1 With the exceptions listed in (2) below, any of the following Rules may be suspended by a motion approved by at least one half of the members present and voting. A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of members is present.
- 2.2 The following Council Meeting Procedure Rules may not be suspended;
- a. Suspension (Rule 2)
  - b. Variation and revocation (Rule 3)
  - c. Annual General Meeting (Rule 6)
  - d. Notice and Summons (Rule 15.3 – 15.4)
  - e. Minutes (Rule 14)
  - f. Voting (Rule 21)
  - g. Exclusion of the public (Rule 25)
  - h. Disorderly Conduct by Councillors (Rule 26)
  - i. Any suspension can only be for the duration of the meeting.

### **3 Variation and Revocation**

- 3.1 Any motion to add to, vary or revoke these Council Meeting Procedure Rules when proposed and seconded will stand adjourned without discussion to the next ordinary meeting of Full Council.



- 4 Application to Committees and Sub-Committees
  - 4.1 The following rules will apply to meetings of Committees and Sub Committees with the exception of d) Time of meetings applying to the meeting of Cabinet:
    - a. Appointment of Deputy Members (Rule 9)
    - b. Notice and Summons (Rule 15.3 – 15.4)
    - c. Chairing the Meeting (Rule 11)
    - d. Time of Meetings (Rule 12)
    - e. Quorum (Rule 13)
    - f. Minutes (Rule 14)
    - g. Rules of Debate (Rule 20)
    - h. Voting (Rule 21)
    - i. Any special provisions
  - 4.2 In the application of these rules to meetings other than Full Council meetings, greater informality may be exercised at the discretion of the chairperson of the meeting.
- 5 Meetings of Full Council
  - 5.1 This section sets out, in order, the format of the three types of Council meetings. These are the annual meeting, ordinary meetings and extraordinary meetings.
- 6 Annual Meeting
  - 6.1 Timing and Business
    - a. The Annual General Meeting of the Council will be held:
      - (i) In a year when there is an ordinary election of Councillors to the Council on such a day within the 21 days immediately following the day of retirement of the outgoing Councillors as the Council may fix.
      - (ii) In any other year, on such a day in the month of March, April or May as the Council may fix; and
      - (iii) At such hour as the Council may fix.
    - b. At the Annual Meeting, the Council will:

- (i) Elect a person to preside if the retiring Mayor and Deputy Mayor are not present.
  - (ii) Elect the Mayor for the ensuing year.
  - (iii) Appoint the Deputy Mayor of Council for the ensuing year.
  - (iv) Elect (or confirm, as appropriate) the Leader.
  - (v) Be told by the Leader about the composition and constitution of the Cabinet Members for the ensuing year, and the names of councillors chosen to be Cabinet Members
  - (vi) Determine the Council's Committee structure, the Chairpersons of Council Committees and its membership. In determining the Councils committee structure Full Council must appoint at least one Overview and Scrutiny Committee, a Committee to carry out the functions of a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to Full Council nor are executive functions (as set out in Part 3 of this Constitution); and
  - (vii) Present any certificate or bestow any honour on a Councillor/s or ex-Councillor/s, an individual/s, or group/s, as appropriate.
- c. Selection of Councillors within the Council Committee structure and, if appropriate, Outside Bodies
- (i) At the annual meeting Full Council will:
    - decide which committees to establish for the municipal year.
    - decide the size of those committees.
    - decide the allocation of seats and deputies to political groups in accordance with the political balance rules.
    - receive nominations of Councillors to serve on each committee and outside body; and
    - appoint to those committees and outside bodies except where appointment to those bodies has been delegated by Full Council to or is exercisable only by Cabinet.

## 7 Ordinary Meetings

### 7.1 Order of Business

- a. Except where Full Council on the ground of urgency vary the order of business in accordance with Council Meeting Procedure Rule 2, the order of business at every ordinary meeting of Full Council shall be:
  - (i) To choose a person to preside if the Mayor and Deputy Mayor be absent.
  - (ii) To deal with any business required by statute or subordinate legislation to be done before any other business.

- (iii) To approve as a correct record and sign the minutes of the last meeting of Full Council except that meetings of the annual or extraordinary meeting will be submitted for confirmation for the next ordinary meeting of Full Council.
  - (iv) To receive any declarations of interest from Councillors.
  - (v) To receive such communications as the Mayor, Leader or Chief Executive may desire to lay before the Council.
  - (vi) To receive apologies.
  - (vii) To answer questions from the Public pursuant to Council Meeting Procedural Rule 19.
  - (viii) To receive petitions in accordance with the Council's Petition Scheme, under Council Meeting Procedure Rule 22.
  - (ix) To deal with business expressly required by statute to be done.
  - (x) To dispose of business (if any) remaining from the last meeting.
  - (xi) To receive and consider reports of the Leader, Cabinet and of Committees and referred minutes which require determination by Full Council. In addition to receive reports on the business of joint arrangements and external organisations as appropriate.
  - (xii) To consider notices of motion in the order in which they have been received.
  - (xiii) To consider any urgent items under Council Meeting Procedure Rule 18 of this Constitution.
  - (xiv) To consider the making or termination of appointments to bodies and changes to memberships of committees set up by Full Council.
  - (xv) To answer questions from Councillors under Council Meeting Procedure Rule 19 of this Constitution.
- b. The order of business may be varied by a resolution passed on a motion duly moved and seconded, which shall be put without discussion, provided that business falling under items in (a) i, ii, iii in paragraph 7.1 above shall not be displaced.

## 8 Extraordinary Meetings of the Council

8.1 Those listed below may request the Chief Executive to call a Full Council meeting in addition to ordinary meetings:

- a. The Council by resolution
- b. The Mayor – as a result of a requisition signed by any five councillors of the Council.
- c. The statutory officers: the Head of Paid Service, the Monitoring Officer or the Section 151 Officer

- d. Any five councillors of the Council (in accordance with Paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), if they have signed a requisition presented to the Mayor and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition
  - e. The Chief Executive on a matter of urgency or emergency in consultation with the Mayor and the Leader.
- 8.2 The business to be conducted at an extraordinary meeting shall only relate to the issue which has caused the meeting to be convened. There will be no public or Councillor questions under Council Meeting Procedure Rule 19 unless related to the matter of the extraordinary meeting.
- 8.3 Other matters shall await the next ordinary meeting of Full Council.
- 9 Appointment of Deputy Councillors
- 9.1 A Deputy Councillor shall only serve as a Councillor of the relevant body at any meeting at which another Councillor of the same political group is absent for the entire meeting. No substitutions of membership may be made during the course of the meeting and explicitly in circumstances where a meeting is adjourned and reconvened at a later date.
- 9.2 Deputy Councillors will have all the powers and duties of any ordinary Councillor but will not be able to exercise any special powers or duties exercisable by the person they are deputising for.
- 9.3 There shall be no Deputy Members in Cabinet.
- 9.4 Deputy Councillors may be appointed to Committees and Sub-Committees on the following basis:
- 9.5 When appointments are made to any Committee or Sub-Committee.
- 9.6 The number of deputies in respect of each Committee shall be up to two deputy members per group.
- 9.7 The Democratic Services Team Manager shall amend the standing membership of Committees and joint Committees in accordance with the above and the wishes of the political groups to whom seats on these Committees have been allocated.
- 10 Notice of and Summons to Full Council
- 10.1 The Chief Executive will give notice to the public of the time and place of any Full Council meeting in accordance with the [Access to Information Rules](#) at least five clear working days before a meeting. at least five clear working days before a meeting.

10.2 A signed summons will be communicated to every member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted.

## 11 Chairing the Meeting

11.1 The Mayor's ruling on any point of order, interpretation of these Council Procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion nor challenged at the meeting.

11.2 The Mayor may, from time to time, issue guidance as to how they will discharge their responsibility in chairing Full Council.

11.3 Any power or duty assigned to the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

11.4 The Mayor has discretion to:

11.5 order the adjournment of any meeting.

11.6 following consultation with the Leader of the Council, alter the date or time of any meeting; and

11.7 cancel or postpone a meeting in the event of an emergency or where there is no business requiring Council approval.

## 12 Time of meetings

12.1 Meetings of Full Council will usually be at 6.30pm or any other such time as the Mayor agrees.

## 13 Quorum (minimum number of members)

13.1 Subject to any specific statutory requirement, the quorum of a meeting will be one third of the whole number of voting members, or three voting members, whichever is the greater.

13.2 If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.

13.3 During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

13.4 Subject to these rules remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

13.5 The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment under 10.2 that there are sufficient members present to constitute a quorum.

## 14 Minutes

14.1 The Mayor shall put the question that the minutes of the meeting of Full Council held on the relevant date be approved as a correct record.

14.2 No discussion shall take place upon the minutes, except upon their accuracy and any question of their accuracy shall be raised by motion. If no such question on their accuracy is raised, or if it is raised then as soon and has been disposed of, the Mayor shall sign the minutes.

14.3 Where in relation to any meeting of Full Council if the next such meeting is a meeting called under paragraph 4 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following Ordinary meeting of Full Council (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purpose of signing the minutes in accordance with that Schedule.

## 15 Notices of Motion

### 15.1 Scope

- a. Motions must be about matters for which the council has a responsibility, or which affects part or all of the district. The Mayor may, on the advice of the Monitoring Officer, refuse a motion which is illegal, scurrilous, improper, relates to a matter which has been the subject of debate or decision by Full Council in the previous six months, or is otherwise out of order. The member intending to give notice of the motion should, in good time, consult the Strategic Director(s) with responsibility for the matter, or their nominee, and determine the context and possible consequences for what is proposed prior to submitting the motion.

### 15.2 Exceptions

- a. Where, following publication of the agenda for a meeting of Full Council, an urgent matter for which the council has responsibility and affects part or all of the District arises and it is not practical to defer consideration of the motion to the next ordinary meeting of Full Council a motion signed by two Councillors may be accepted by the Mayor following consultation with the Monitoring Officer.

### 15.3 Notice

- a. Except as provided by this Council Procedure Rule 15, notice of every motion shall be in writing, signed by the Councillor or Councillors giving the notice and the seconder and delivered to the Democratic Services Team by 10 am, 10 clear days before the day of the Full Council meeting. This notice

of motion will confirm the names of the Councillors proposing and seconding the motion.

#### 15.4 Summons

- a. The Chief Executive shall set out in the summons for every meeting of Full Council all motions of which notice has been duly given in the order in which they have been received unless the member giving such a notice has, when giving it, intimated in writing that they propose to move it at some later meeting or has withdrawn it in writing.

#### 15.5 Motions set out in the agenda.

- a. If a motion thus set out in the summons be not moved it shall, unless postponed by consent of Full Council, be treated as abandoned and shall not be moved without fresh notice in accordance with this procedure rule.
- b. A motion shall only be moved by a Councillor by whom notice has been given or by a Councillor authorised by such a Councillor in writing and prior to the commencement of the relevant meeting.
- c. A period of up to twenty minutes shall be allowed for Full Council to have a discussion about the motion, such period to be in addition to any introductory speech by the mover (which may be up to eight minutes) and a seconder whether their right to speak is reserved or not (which may be up to five minutes). The mover has a total of five minutes at the end of the discussion to sum up.
- d. A summary of that discussion will be included in the minutes of the meeting.

#### 15.6 Motions which may be moved without Notice

- a. The following motions may be moved without notice:
- b. Appointment of a Chairperson of the meeting at which the motion is made.
- c. Motions relating to the accuracy of the minutes, closure, adjournment, order of business, next business, or reference to the Leader or Cabinet or a Committee.
- d. Appointment Committees or councillors thereof, so far as arising from an item mentioned in the summons to the meeting.
- e. Adoption of reports and recommendations of the Leader, Cabinet, Committees or officers and any consequent resolutions.
- f. That leave be given to withdraw a motion.
- g. Amendments to motions.
- h. Suspending a Council Meeting Procedure Rule.

- i. To exclude the public and press in accordance with the Access to Information Rules.
- j. That a Councillor named under Council Meeting Procedure Rule 26 be not further heard or do leave the meeting.
- k. Giving consent of Full Council where the consent of Full Council is required by this Constitution.
- l. To refer something to an appropriate body or individual.
- m. That the question now be put.
- n. To refer something to an appropriate body or individual.

## 16 Rescinding Resolutions

16.1 At any meeting of Full Council, no motion to rescind any resolution which has been passed within the preceding six months and no motion to the same effect as any motion which has been moved within the previous six months shall be in order. The Mayor may, acting on the advice of the Chief Executive, refuse such a motion. This Council Meeting Procedure Rule shall not apply to motions in pursuance of the report or recommendations of the Leader, Cabinet or of a Committee.

## 17 Presentation of Referred Minutes

17.1 The Chief Executive shall be authorised to determine the order in which the referred minutes shall be debated, having regard to the relative importance of each matter, and shall arrange the agenda accordingly.

17.2 The Leader or Chairperson of the relevant Committee, or Cabinet Member will be deemed to have moved that the minutes of the Cabinet or of their Committee be adopted, unless they indicate to the contrary at the meeting.

17.3 The heading of each minute will be called in order whereupon:

- a. The Leader or Chairperson of the relevant Committee or Cabinet Member will make no introduction unless the minute is of special importance.
- b. If no councillor rises to speak that minute will be deemed to be confirmed and the next minute will be called.
- c. If discussion of a minute commences the Mayor will permit questions and then debate (and appropriate votes) on that minute but councillors may only question matters of fact arising during the debate.

17.4 Where Full Council has before it referred minutes of more than one body on the same subject the following procedure shall apply (unless Full Council resolves otherwise in any particular case):



- a. All such minutes shall be taken together when the minute of the earliest meeting is presented.
- b. Any introductions by the Leader or Chairpersons of the relevant Committee or Cabinet Member shall be made in the same order as the dates of the relevant meetings, unless in the opinion of the Mayor it would assist the decision-making process to take the minutes in another order;
- c. If no Councillor rises to speak on any of the minutes, they shall all be deemed to be confirmed;
- d. Motions or amendments may be moved in respect of any of the referred minutes before Full Council, but any amendments may only relate to one minute;
- e. The Leader or Chairpersons of the relevant Committee or Cabinet Member exercising their right of reply under Council Meeting Procedure Rule 20.13 shall do so in the same order as the dates of the relevant meetings, notwithstanding (b) above and provided that the Leader shall have the final right of reply.

## 18 Urgent Business

18.1 If, after the despatch of the agenda and summons for any meeting of Full Council, any item of business arises which requires the urgent attention of the Council and cannot be dealt with under executive/delegated powers by the Leader or Cabinet or any Committee or any officer, the Chief Executive in consultation with the Leader (or in their absence the Deputy-Leader) shall:-

- a. Where practicable summon a meeting of the Cabinet and/or the appropriate Committee for a date or time prior to the meeting of Full Council to consider the matter and make recommendations to Full Council.
- b. Place the item before Full Council together with any recommendation of the Leader, Cabinet or the Committee (which may be reported orally if the presentation of written minutes is impracticable) and so far as necessary, the suspension of Council Meeting Procedure Rule 17 shall be moved to enable other motions to be moved.

## 19 Questions for Full Council

### 19.1 Questions on notice

- a. Appropriate questions may be asked by members of the public who live or work in the Winchester District and by Councillors at Full Council meetings.
- b. A 'question on notice' means that the question must be in writing, including email, and submitted to the council at least 5 working days before the day of the meeting (not including the day of the meeting). A working day is defined for this purpose as Monday through Friday, excluding days designated as bank holidays in England and Wales.

## 19.2 General

- a. Members of the public may ask one question to either the Leader, a Cabinet Member or Committee Chair at Ordinary Meetings of Full Council. The total time allocated for questions by the public shall normally be limited to 20 minutes.
- b. Councillors may ask questions to either the Leader, a Cabinet Member or Committee Chair at Ordinary Meetings of Full Council. The total time allocated for questions by Councillors shall normally be limited to 40 minutes.

## 19.3 Order of Questions

- a. Members of the public and Councillors who are at the meeting will have opportunity to ask their question.
- b. Questions by Members of the public will be asked in the order in which notice of them was received, except that the Mayor may group together similar questions which shall be asked in the order they were received unless the Mayor considers business may be better transacted by varying such order and with fairness in mind.
- c. Questions by Councillors for the first question put will be asked in the order in which notice of them was received except that questions will rotate between the political groups and independent Councillors to ensure a fair distribution across all Councillors. At the end of all first questions the same will apply to the second and subsequent questions until either all questions have been heard or the time allocated for Councillor questions has expired. The Mayor may group together similar questions where they consider the business may be better transacted by varying such order of questions and with fairness in mind.

## 19.4 Notice of Questions

- a. A question may only be asked if notice has been given by delivering it in writing, including email, to the Democratic Services Team no later than 10 am, 5 clear working days before the day of the Council meeting (email to [democracy@winchester.gov.uk](mailto:democracy@winchester.gov.uk)). In addition, for members of the public each question must also give the name, address, email address and telephone number of the questioner.

## 19.5 Scope of Questions

- a. Questions must relate to matters for which the Council has a responsibility, or which affect the district. The Chief Executive may reject a question if:
  - (i) it is within the terms of reference of a Committee; or
  - (ii) it is or relates to matters of a quasi-judicial nature; or
  - (iii) it is defamatory, frivolous or offensive; or

- (iv) it refers to legal proceedings being taken or being anticipated by or against the Council; or
  - (v) it is substantially the same as a question which has been put at a meeting of Full Council in the past six months; or
  - (vi) it requires the disclosure of confidential or exempt information; or
  - (vii) it relates to the provision of personal services; or
  - (viii) the questioner has a commercial or financial interest in the issue; or
  - (ix) It relates to an identifiable individual or employee of the council; or
  - (x) it relates to a planning or licensing application.
- b. If rejected, the questioner shall be advised accordingly by the Democratic Services Team.

#### 19.6 Record of Questions

- a. Copies of all questions will be circulated electronically to all Councillors and will be published alongside the agenda as a supplemental item.

#### 19.7 Asking the Question at the Meeting

- a. The Mayor will invite the questioner to put their question as written to the Councillor named in the question. Each questioner has 2 minutes in which to ask their question (the questioner may prefer to simply state to “refer to the order paper”). If a questioner who has submitted a question is unable to be present, the Mayor may ask the question on their behalf, or invite another Councillor to do so, or indicate that a written reply will be given and published on the website following the meeting. or decide, in the absence of the questioner, that the question will not be dealt with.

#### 19.8 Supplementary Question

- a. A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to their original question. A supplementary question must be a question and not a statement and arise directly out of the original reply. The Mayor may reject a supplementary question for that reason or on any of the grounds set out above.

#### 19.9 Written Answers

- a. Every member of the public and Councillor who asks a question within the scope of these Council Procedure Rules is entitled to an answer. The answer may be either a direct oral answer, a referral to an existing publication, or a referral to an officer to respond in writing. Any question which cannot be dealt with during the permitted question time will be dealt with by a written answer.

- b. For members of the public and Councillors written answers will be published to questions submitted (but not the supplementary questions) on the website following the meeting and all members of the public who have asked a question will be notified accordingly.

#### 19.10 Questions on a referred Committee minute

- a. A Councillor may ask the Mayor, the Leader, Chairperson of a Committee, or Cabinet Member within their area of responsibility any question upon any referred minute of the Cabinet or of a Committee when that minute is under consideration by Full Council.

#### 19.11 Urgent Questions

- a. A Councillor may, with the permission of the Mayor, put to them or to the Leader, Chairperson of a Committee, or Cabinet Member within their area of responsibility any question relating to urgent business, of which such notice could not have been given; but a copy of such question shall be sent to the Democratic Services Team Manager (email to [democracy@winchester.gov.uk](mailto:democracy@winchester.gov.uk)) not later than 10 am on the day of the meeting.

#### 19.12 When questions cannot be asked at a public meeting

- a. No questions may be asked at the annual meeting of council.
- b. No questions may be asked at an extraordinary meeting of council except in relation to reports published with the agenda.

### 20 Rules of Debate

#### 20.1 Motions and Amendments

- a. Except for a motion deemed to have been moved by the Leader or a Committee Chairperson, or Cabinet Member under Council Meeting Procedure Rule 17.2 (that the referred minutes be adopted), every motion or amendment shall be put in writing and handed to the Mayor before it is put to Full Council by the Mayor. An amendment to a motion can be moved and seconded at any appropriate time; however, motions and amendments shall be moved and seconded before they are discussed.

#### 20.2 Seconder's Speech

- a. A Councillor seconding a motion or amendment has the right to speak upon seconding a motion or an amendment or later in the debate where they have reserved their right to speak unless, before they have spoken, a closure motion has been passed.

#### 20.3 Councillors to Stand when Speaking.

- a. Councillors of the Council shall stand when speaking (unless unable to do so) and shall always address the Mayor. If two or more Councillor rise, the Mayor shall call on one to speak; the other or others shall then sit. While a Councillor is speaking the other Councillor shall remain seated, unless rising on a point of order or in personal explanation.

#### 20.4 Relevancy and Length of Speech

- a. A Councillor shall only direct their speech to the question under discussion or to an explanation or to a question of order. No speech shall exceed eight minutes in the case of only a mover of the motion and five minutes in all other cases (including the mover/seconded of amendments/summing up by mover) except at the discretion of the Mayor.

#### 20.5 When a Councillor may Speak Again

- a. A Councillor who has spoken on a motion or on a minute may not speak again whilst it is the subject of debate, except:
  - (i) To speak once on an amendment moved and seconded by other Councillors.
  - (ii) To move a further amendment if the motion has been amended since they last spoke;
  - (iii) If their speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - (iv) In exercise of a right of reply;
  - (v) On a point of order;
  - (vi) By way of personal explanation.

#### 20.6 Point of Order

- a. A Councillor may rise on a point of order at any time. The Councillor who is then speaking shall thereupon resume their seat and the member so rising shall be entitled to be heard forthwith.
- b. A point of order shall relate only to an alleged breach of a Council Meeting Procedure Rule or statutory provision. The Councillor must indicate the Council Meeting Procedure Rule or statutory provision and the way in which they consider it has been broken.
- c. The ruling of the Mayor on a point of order shall not be open to question or discussion.

#### 20.7 Personal Explanation

- a. A Councillor may rise by way of a personal explanation at any time. The Councillor who is then speaking shall thereupon resume their seat and the member so rising shall be entitled to be heard forthwith.

- b. A personal explanation shall be confined to some material part of a former speech by them at the same meeting which may appear to have been misunderstood in the present debate.
- c. The ruling of the Mayor on the admissibility of a personal explanation shall not be open to question or discussion.

#### 20.8 Motions which may be moved during debate.

- a. When a motion is under debate no other motion shall be moved except the following:
  - (i) To amend the motion;
  - (ii) To postpone consideration of the motion;
  - (iii) To adjourn the meeting;
  - (iv) To adjourn the debate;
  - (v) To proceed to the next business;
  - (vi) That the question be now put;
  - (vii) That a Councillor be not further heard;
  - (viii) That a Councillor does leave the meeting;
  - (ix) A motion to exclude the press and public in accordance with the [Access to Information Rules](#).

#### 20.9 Amendments to Motions

- a. Every amendment shall be relevant to the motion on which it is moved and shall be either:
  - (i) To leave out words;
  - (ii) To insert or add words;
  - (iii) To leave out words and insert or add others;
  - (iv) To refer back the whole or any part of a recommendation of the Leader, Cabinet or a Committee;
  - (v) To convey a direction to the Leader, Cabinet or a Committee or an individual making the decision to consider some particular aspect of their powers and duties;
  - (vi) To refer the matter under consideration to the Leader, Cabinet or the appropriate body.
- b. Provided that the omission, insertion or addition of words under a), i, ii, iii shall not have the effect of introducing an entirely new proposition or negating the motion before Full Council.
  - (i) Whenever an amendment upon an original motion has been moved and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been disposed of.

- (ii) If an amendment is not carried, other amendments to the original motion may be moved.
- (iii) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments are moved.
- (iv) After an amendment has been carried, the Mayor or a person directed to do so will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 20.10 Alteration to Motions

- a. A Councillor who has proposed a motion may with the consent of the seconder and Full Council and signified without discussion:
  - (i) Alter a motion of which they have given notice, or
  - (ii) Alter a motion which they have moved without notice with the consent the seconder and of Full Council

#### 20.11 Withdrawal of Motions

- a. A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council, which shall be signified without discussion and no member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

#### 20.12 Closure Motions

- a. A Councillor may move, without comment, the following motions at the end of a speech of another member:
  - (i) "that the Council proceed to the next business;"
  - (ii) "that the question be now put;"
  - (iii) "that the debate be now adjourned", or
  - (iv) "that the Council do now adjourn"
- b. On the seconding of which the Mayor shall, unless in their opinion, the matter before the meeting has been insufficiently discussed, proceed as follows:
  - (i) On a motion to proceed to the next business:
  - (ii) The Mayor shall put to the vote the motion to proceed to the next business;
  - (iii) On a motion that the question be now put:
  - (iv) The Mayor shall put to the vote the motion that the question be now put, and if it is passed, then give the mover of the original motion their right of reply before putting their motion to the vote;
  - (v) On a motion to adjourn the debate or the meeting

- (vi) The Mayor shall put the adjournment motion to the vote without giving the mover of the original motion their right to reply on that occasion.

#### 20.13 Right of Reply

- a. The proposer of a motion (but not the proposer of an amendment) shall have a right to reply at the close of the debate upon such motion, immediately before it is put to the vote.
- b. If an amendment is proposed the proposer of the original motion shall be entitled to reply at the close of the debate upon the amendment. A member exercising a right of reply shall not introduce a new matter.
- c. After every reply to which this Procedure Rule refers the Mayor will put the motion or amendment to the vote without further discussion.

#### 20.14 Rights of the Leader, Chairperson of a Committee or Cabinet Member during debate.

- a. The Leader, a Chairperson of a Committee or Cabinet Member, may during the debate on a minute of their Committee or area of responsibility, reply to a question or clarify some matter without precluding their right to speak subsequently to a motion.

#### 20.15 Mayor or Leader or Chairperson of a Committee or Cabinet Member Holder may call on an Officer

- a. The Mayor may during a debate call on an officer present in the meeting to speak or invite or allow the Leader, Chairperson of a Committee or Cabinet Member so to do.

### 21 Voting

#### 21.1 Majority

- a. Unless the law or this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

#### 21.2 On the voices and show of hands

- a. Unless a recorded vote is requested the Mayor will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the chairperson will take the vote by a show of hands or by any electronic means available to the meeting.

#### 21.3 Mayor's Casting Vote

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



## 21.4 Recorded Vote

- a. If five Councillor present at the meeting demand it the names for or against the motion or amendment or abstaining from voting will be taken down in writing and entered in the minutes. A demand for a recorded vote will override a demand for a ballot. A recorded vote may be facilitated by electronic means where available.
- b. There will also be a recorded vote when required by law. This includes that a recorded vote will be required at a meeting of Full Council on motions, amendments or substantive motions relating to the approval of the budget or the setting of the Council tax, whereby there shall be recorded in the minutes the names of the Councillor who cast a vote for the motion/amendment or against the motion/amendment or who abstain from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 it cannot be suspended under the Council Meeting Procedure Rules.

## 21.5 Right to Require Individual Vote to be Recorded

- a. Where any Councillor requests it immediately after a vote is taken the vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

## 21.6 Voting on Appointments

- a. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- b. In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining (and that candidate does not have a majority), the above provision will not apply and the Chief Executive (or their representative) will draw lots to determine which of the candidates with fewest votes will proceed to the next round.
- c. In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Chief Executive (or their representative) to decide which person is elected.

## 22 Presentation of Petitions

- 22.1 Winchester City Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Details of when and how a petition to the council may be presented is set out in [Council's Petition Scheme in the Council's website](#)..

## 23 Budget Setting

23.1 The budget of the council will be set at an ordinary meeting of Full Council.

### 23.2 Alternative Budget

- a. An alternative budget is one which contains more than one amendment, omission or addition.
- b. Where an alternative budget is being proposed, the proposing group or Councillor, must have secured confirmation from the Section 151 Officer that the alternative budget meets the statutory requirements and that the alternative budget proposed is deliverable. This must be confirmed within sufficient time to allow for 6 clear days prior to the budget meeting.
- c. Proposed alternative budgets for consideration at the Full Council meeting will be published 48 hours (excluding Bank Holidays and weekends) prior to the budget meeting and be taken in the order in which they have been proposed to the Section 151 Officer.

## 24 Disturbance by Members of the Public

24.1 If a member of the public interrupts the proceedings at any meeting the person presiding after warning shall order their removal from the room where the meeting is being held. In case of general disturbance in any part of the meeting room open to the public the person presiding shall order that part be cleared.

## 25 Exclusion of the Public

25.1 Members of the public and press may only be excluded either in accordance with the [Access to Information Rules](#) in Part 4 of this Constitution or Council Meeting Procedure Rule 24 (Disturbance by Members of the Public) (Disturbance by Members of the Public)

## 26 Disorderly Conduct by a Councillor

26.1 When the Mayor stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

26.2 If, at any meeting, a Councillor, in the opinion of the Mayor, on the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the meeting, it shall be competent for the Mayor to move that the Councillor shall not further be heard or that the Councillor shall leave the meeting and the motion if seconded shall be put and determined without discussion.

26.3 If after a motion under the foregoing paragraph has been carried the misconduct or obstruction is continued, and in the opinion of the Mayor renders the due and orderly despatch of business impossible, in addition to any other

power vested in them, the Mayor may adjourn or suspend the sitting for such period as they shall consider expedient.

26.4 The decision as to whether misconduct is taking place shall rest with the Mayor who will have due regard to the councillor code of conduct.

## Part 4.2 - Cabinet Procedure Rules

### 1 Executive Functions

- 1.1 The Cabinet is the Council's Executive body and is responsible for carrying out those functions which by law or under this Constitution are designated as Executive functions. The Leader decides how the Executive functions shall be discharged. This may be by:
- a. The Cabinet as a whole;
  - b. A Committee of the Cabinet;
  - c. An individual Member of the Cabinet;
  - d. A Cabinet Member at a Cabinet Member Decision Day;
  - e. An officer;
  - f. An area Committee;
  - g. Joint arrangements; or
  - h. Another local authority.

### 2 Delegation by the Leader

- 2.1 The Cabinet shall consist of the Leader, as Chairperson and not more than nine other members appointed by the Leader.
- 2.2 The Leader shall announce the initial appointments to Cabinet at the Annual Meeting of the Council.
- 2.3 The Leader appoints one of the members of the Cabinet (a Portfolio Holder) to be their deputy and be Vice-Chairperson of Cabinet.
- 2.4 The Deputy Leader will hold office until the end of the term of office of Deputy Leader (unless the person resigns as a Deputy Leader, ceases to be a Councillor or is disqualified or removed from Cabinet by the Leader).
- 2.5 The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. The Leader may at any time remove Portfolio Holders from the Cabinet and change Portfolio Holders' areas of responsibility.
- 2.6 The Leader will report to the Council on all appointments and changes to the Cabinet. No member of the Cabinet may also serve as a member of The Overview and Scrutiny Committee, the two Policy Committees, or the Audit and Governance Committee.

### 3 Absent Leader

- 3.1 If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.

### 4 Removal of Leader from office

- 4.1 The Leader may be removed during the four-year term of office by way of resolution by a simple majority of the Council. If the Council passes a resolution to remove the Leader, a new Leader is to be elected: -

- a. At the meeting at which the Leader is removed from office, or
- b. At a subsequent meeting.

### 5 Appointment of Cabinet Committees

- 5.1 The Leader or Cabinet may appoint Cabinet Committees on a continuing or ad hoc basis to deal with any matter relevant to the business or responsibility of the Cabinet and may delegate authority for action to such Committees. No Member may be appointed to or serve on a Committee of the Cabinet unless that Member is at that time a Member of the Cabinet.
- 5.2 Each Cabinet Committee may appoint Sub-Committees on a continuing or ad hoc basis to consider any matter relevant to the business or responsibility of the Committee, subject, in all cases, to no objection being raised by the Leader or Cabinet to the principle of the appointment of a Sub-Committee in each case, and to the terms of reference. If the Leader or Cabinet raises objection in respect of a body to deal with non-executive functions, the matter will be referred to Council for determination.
- 5.3 Only a member of a Sub-Committee who is a member of the parent Committee may be elected as Chairperson of that Sub-Committee, but this requirement shall not debar the election (in the absence of the Chairperson) of a Member who is not a member of the parent Committee to preside at a particular meeting.

### 6 Appointment of informal working groups

- 6.1 The Leader or Cabinet may appoint informal Working groups on a continuing or ad hoc basis to deal with any matter relevant to the business or responsibility of the Cabinet. Only a member of Cabinet may be elected as Chairperson of an Informal Working Group. Informal working groups should where relevant include a Member of the Town Forum or a Ward Councillor.

### 7 Meetings of the Cabinet and its Committees and Cabinet Member Decision Days

- 7.1 Meetings of the Cabinet and its Committees and Cabinet Member Decision Days will be determined by the Leader in consultation with the Chief Executive or Monitoring Officer and will be convened in accordance with the [Access to Information Procedure Rules](#) set out in this Constitution. set out in this Constitution.
- 7.2 Advance notice of Cabinet Meetings and its Committees will be published on the Council's website in accordance with the usual statutory requirements that apply to meetings, namely five clear working days in advance together with any accompanying reports thereby enabling opportunity for other Members and the public to consider matters prior to the decision to be made.
- 7.3 Meetings of Cabinet and its Committees will be held in public, except where dealing with confidential or exempt matters.
- 7.4 Public speaking will be permitted at Cabinet Meetings and its Committees provided it relates to an item on the agenda for decision and at least three clear working days prior notice has been given. Contributions are also permitted on general matters relating to Cabinet or Cabinet Members. Members of the public will each be limited to a maximum of three minutes, subject to a maximum of fifteen minutes per decision being made or at the discretion of the Chairperson.
- 7.5 Visiting Councillors will be allowed to speak at meetings of Cabinet and its Committees, provided at least three clear working days prior notice has been given. Visiting Councillors will be given a maximum of five minutes per decision being made, which includes their original question/comment and any additional supplemental points.
- 8 Quorum
- 8.1 The quorum of Cabinet shall be a third of the whole number of Members on the committee and subject to a minimum quorum of three.
- 9 Conduct of Cabinet Meetings
- 9.1 The Leader will preside at any meeting of the Cabinet or its Committees or may appoint another person to do so. If the Leader is not present and has not appointed another person to preside at the meeting the Members of the Cabinet who are present shall choose a Member to preside.
- 10 Management of Cabinet Business
- 10.1 At each meeting of the Cabinet or a Committee of a Cabinet the following business will be conducted:
- a. Leader's announcements
  - b. Apologies for Absence

- c. Minutes of the Last Meeting – confirmation as a correct record and signing
- d. Matters referred to the Cabinet
- e. Consideration of reports from Cabinet Sub-Committees/Overview and Scrutiny Committees/Audit and Governance Committee
- f. Matters set out on the Agenda of the Meeting which will indicate which are key decisions and which are not in accordance with the Access to Information Rules set out in Part 4 of this Constitution.
- g. The Forward Plan

## 11 Items on the Cabinet Agenda

- 11.1 The person presiding at a meeting of the Cabinet, or its Committees may vary the Order of the Agenda or adjourn matters for further consideration.

## 12 Councillors

- 12.1 A councillor shall be entitled to request that an item be placed on the agenda of a meeting of the Cabinet or its Committees provided that (a) the particulars thereof are given to the Monitoring Officer at least 14 working days prior to the date of the meeting (b) no councillor (other than the person presiding) may give notice of more than one item of business for any one meeting. The Chairperson shall determine whether to take the item on the agenda. The agenda for the meeting will give the name of the Councillor who asked for the item to be considered.

## 13 Officers

- 13.1 The Chief Executive, the Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the Agenda of the Cabinet or its Committees and may require that such a meeting to be convened in pursuance of their statutory duties.

## 14 Cabinet Member Decision Days

- 14.1 Advance notice of Cabinet Member Decision Days will be published in accordance with the usual statutory requirements that apply to meetings, namely five working days in advance together with any accompanying reports thereby enabling opportunity for other Members and the public to consider matters prior to the decision to be made. Decision Day agendas will be published on the Council's website.
- 14.2 Cabinet Member Decision Days will be held in public, except where dealing with confidential or exempt matters.
- 14.3 Public speaking will be permitted at Cabinet Member Decision Days provided it relates to an item on the agenda for decision and at least three clear working

days prior notice has been given. Contributions are not permitted on general matters relating to Cabinet or Cabinet Members (which is permissible only at a Cabinet meeting). Members of the public will each be limited to a maximum of three minutes, subject to a maximum of fifteen minutes per decision being made or at the discretion of the Chairperson.

- 14.4 Visiting Councillors will be allowed to speak at a Cabinet Member Decision Day, provided at least three clear working days prior notice has been given. Visiting Councillors will be given a maximum of five minutes per decision being made, which includes their original question/comment and any additional supplemental points.
- 14.5 No public speaking will be permitted on the same or similar topic within a period of six months.
- 14.6 No discussion shall take place with the person(s) addressing the Cabinet Member Decision Day. The Cabinet Member may advise how, if at all, the public comments will be dealt with by noting, action or referral.



## Part 4.3 - Overview and Scrutiny Procedure Rules

- 1 The Three Overview and Scrutiny Committees
  - 1.1 The Council will have three Overview and Scrutiny Committees. The terms of reference for each Committee are set out in [Article 7 of the Constitution](#).
- 2 The arrangements for Overview and Scrutiny Committees
  - 2.1 The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each Overview and Scrutiny Committee, but it may resolve to vary this provision by unanimous vote at the Annual Meeting. Up to 2 deputies can be appointed per group.
  - 2.2 The Overview and Scrutiny Committees may appoint Sub-Committees and/or panels which shall be given a brief to consider a specified subject area and report back to Committee on a regular basis as determined by the Committee.
- 3 Who may sit on Scrutiny Committees?
  - 3.1 All Councillors except Members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.
  - 3.2 In order to maintain public confidence and to increase the effectiveness of the scrutiny function, there will be a clear “firebreak” period between a person ceasing to be a Cabinet Member of the Executive and then becoming involved in the overview and scrutiny function.
  - 3.3 A former Cabinet Member may not be appointed as a member of the Scrutiny Committee or any of its sub-committees or panels for a period of six months starting on the date they ceased to be a Cabinet Member of the Executive. This will not apply if –
    - a. there is a change in political control on Full Council, and a former Cabinet Member Councillor to whom the bar would otherwise apply becomes a member of the Opposition because their group no longer forms the administration; or
    - b. they change their political group or resign from their group membership; or
    - c. Full Council resolves otherwise.
  - 3.4 The firebreak period may only be waived by Full Council where those three limited circumstances do not apply. As a safeguard, Council Procedure Rule 10, a motion with notice, will apply to such a motion before Full Council to do so.

- 3.5 Any Member who is appointed to an Overview and Scrutiny Committee or Panel who has provided support, advice or assistance to the Executive or member of the Executive in relation to a particular issue, must declare a conflict of interest and withdraw from the Scrutiny of that particular issue.
- 4 Appointment of members and deputies
  - 4.1 Members and Deputies on Overview and Scrutiny Committees shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.
- 5 Co-optees
  - 5.1 Each Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.
- 6 Meetings of the Scrutiny Committees
  - 6.1 Meetings of the Overview and Scrutiny Committees shall be held in accordance with the approved timetables of meetings.
  - 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. Such extraordinary meetings shall be convened by the Strategic Director Resources following consultation with the Chairperson of the relevant Overview and Scrutiny Committee concerned and the Chief Executive.
  - 6.3 Where any five members of an Overview and Scrutiny Committee make a request for the committee to be convened this shall be communicated to the Strategic Director Resources who will convene such a meeting subject to a discussion with the Members and the Chairperson of the relevant Overview and Scrutiny Committee as to the reasons and the agenda items.
- 7 Quorum
  - 7.1 The quorum for an Overview and Scrutiny Committee and the quorum for any sub-committee shall be one third of the whole number of members on the committee and subject to a minimum quorum of three.
- 8 Who chairs Overview and Scrutiny Committees?
  - 8.1 The Chairperson for each Overview and Scrutiny Committee shall be appointed by the Council.
  - 8.2 The Chairperson in respect of the Scrutiny Committee shall be a Member from an opposition party. The Chairpersons for the other two Overview and Scrutiny Committees shall be drawn from Members of the majority party.

## 9 Work programme

9.1 The Overview and Scrutiny Committees/Sub-Committees will be responsible for setting their own work programme with reference to the forward plan

## 10 Agenda items

10.1 Any Member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the chairperson of that Committee, in consultation with the Strategic Director Resources that they wish an item relevant to the functions of the Overview and Scrutiny Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Strategic Director Resources will ensure that it is included on the next available agenda, subject to having had the opportunity to scope out the work required to deliver the item and considered the feasibility of this work in terms of officer/other resources.

10.2 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee at its next available meeting.

## 11 Reports from Scrutiny Committees

11.1 Executive arrangements by local authorities must ensure that Overview and Scrutiny Committees have the power to make report or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet. The following paragraphs set out a procedure for compliance with this statutory framework.

11.2 Where an Overview and Scrutiny Committee proposes to deliver a report then, once it has formed recommendations on proposals, the Scrutiny Committee (with support from officers) will prepare a formal report and submit it via the Strategic Director Resources for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

11.3 If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Executive with the majority report with the agreement of the Committee.

11.4 The Council or Cabinet shall consider the report of the Scrutiny Committee at its next meeting.

## 12 Making sure that Scrutiny reports are considered by Cabinet

12.1 The final report will be allocated to either or both the Cabinet and Full Council for consideration, according to whether the contents of the report would have implications for the Council's policy and budget framework. This procedure will be overseen by the Strategic Director Resources.

12.2 When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the policy and budget framework, the Cabinet must be given the opportunity to respond to the Overview and Scrutiny Committee report before the Council meets to consider it and the Council shall also consider any response of the Cabinet to the Overview and Scrutiny Committee proposals.

## 13 Members and officers giving account

13.1 Any Overview and Scrutiny Committee or Sub-Committee may scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions within the terms of reference of the relevant committee.

13.2 As well as reviewing documentation, in fulfilling their role, it may require any member of the Cabinet, the Head of Paid Service and/or any other senior officer to attend before it to explain in relation to matters within their remit:

- a. Any particular decision or series of decisions;
- b. The extent to which the actions taken implement Council policy; and/or
- c. Their performance;

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

13.4 Where any Councillor or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairperson of that Committee will inform the Strategic Director Resources giving at least seven working days' notice of the meeting which the officer is asked to attend and state the nature of the item on which the officer is required to give account.

## 14 Attendance by Others

14.1 An Overview and Scrutiny Committee may invite people to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to address it.

## 15 Call-in

### 15.1 Operation only by the Scrutiny Committee

- a. The following procedure will not be operated by all three Overview and Scrutiny Committees. The Call-In function will solely be in the remit of the Scrutiny Committee. The two policy-driven Committees (Economy and Housing Policy Committee and Health and Environment Policy Committee) will not operate the Call-In procedures.
- b. A key element of the overview and scrutiny role concerns the arrangements for the “call-in” of a key decision taken by or on behalf of the Cabinet.
- c. This Call-In Procedure only applies to decisions that have been made but not implemented at the date of deposit of the Call-In Notice referred to below.
- d. Key decisions by the Cabinet, a Committee of the Cabinet or an individual Cabinet Member and key decisions made by an officer with delegated authority from the Cabinet, may be “called in” by five members of the Council submitting a request in writing on the call-in request form to the Monitoring Officer within five working days of the date of publication of that decision. No implementation of the decision being called in can be made while being heard by the Scrutiny Committee.

### 15.2 Ground for Call-In

- a. Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in the [Articles of the Constitution](#) (Decision Making).
- b. The grounds of call-in are:
  - (i) The decision is outside the terms of reference of the Cabinet, or delegated powers of the decision-maker; and or
  - (ii) The decision appears to be contrary to, or not wholly consistent with, the Council’s Budgetary and Policy Framework or other Council Policy: and or
  - (iii) The information contained within the report, and/or considered by the Cabinet (or other decision-maker) was incomplete or inaccurate: and or
  - (iv) New information has come to light which might cause the decision to be changed; and or
  - (v) The decision was not made in accordance with the ‘Principles of Decision making’ set out in the Articles of the constitution or gives rise to significant legal, financial or propriety issues not already addressed in the report.

### 15.3 This Call-In Procedure shall not apply to –

- a. Relevant Decision where the Chair of Scrutiny Committee (in accordance with paragraph 15.8 of these Rules) has agreed that the particular matter is urgent and the taking of the decision cannot be reasonably deferred; or
- b. any hearing or allegation of misconduct being considered by the Standards Sub-Committee; or
- c. decisions made by specialist committees where an appeals procedure already exists, i.e. decisions made in respect of Development Control, Licensing, consents and other permissions where an appeals procedure already exists.

### 15.4 Valid and Non-Valid Call-In Requests

- a. If the Monitoring Officer on assessing the call-in submitted considers the call-in to be valid they will convene a meeting of the Scrutiny Committee within fifteen working days in consultation with the Chair of the Committee. Any signatories to the Call-In Notice who are not members of the Scrutiny Committee shall have the right to attend and speak (but not vote) at the Committee meeting.
- b. If, however, a Call-In Notice is considered not to be valid in the opinion of the Monitoring Officer, having regard to the procedures in these rules and the law, it will not be accepted without prior discussion with the Chair of the Committee.
- c. Where a Call-In Notice is not accepted the Monitoring Officer will submit a report to the next available meeting of the Scrutiny Committee giving details of the request and the reasons for not accepting it.

### 15.5 Limitation on Call-In

- a. In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
  - (i) A decision must be called-in by at least five Members of the Council; and
  - (ii) A decision on the same item may only be “called in” for scrutiny by the Committee on one occasion within a six-month period. The six-month period is to commence from the date the “call-in” request is received by the Monitoring Officer;
  - (iii) Members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Monitoring Officer.

### 15.6 Publication of the Notice of Decisions

- a. The following arrangements for the call-in will apply:

- (i) When a key decision is made by the Cabinet (or by any Committee or Members of the Cabinet with a delegated authority or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published electronically. Notification of all such decisions will also be issued to all Members by the person responsible for publishing the decision;
- (ii) The relevant notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in;
- (iii) The Monitoring Officer shall call-in a decision for scrutiny by the Committee if so, requested by members (in accordance with the procedure above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chairperson of the committee, they may call an extraordinary meeting of the committee on such date as they may determine (in accordance with the [Access to Information Procedure Rules](#) in this Constitution);

## 15.7 Procedural Matters

- a. Any member considering calling in a decision must first make every effort to discuss the issue with the relevant Cabinet Member or the Leader of the Council and this must be confirmed in the call-in notice;
- b. Members using the call-in arrangements have the right to address the Committee when it deals with the issue;
- c. Normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Cabinet. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Cabinet that further work be carried out and that the Scrutiny Committee makes recommendations at a later date. In these circumstances, the Cabinet will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matters and the provisions of the Policy and Budget Framework Rules;
- d. If the Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Scrutiny Committee meeting;
- e. If, through the scrutiny process and/or in pursuance of the [Policy and Budget Framework Procedure Rules](#) set out in Part 4 of this constitution, a called-in decision is deemed to be contrary to the policy framework, and/or contrary to or not wholly consistent with the budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made; and, a called-in decision is deemed to be contrary to the policy framework, and/or contrary to or not wholly consistent with the budget,

it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made; and

- f. If the called in decision does not contradict the policy and/or budget framework the Committee decides to make an alternative recommendation, this will be considered by the Cabinet at its next meeting and no action on implementation of the decision shall be taken until a final decision has been made by the Cabinet.

## 15.8 Call-in and Urgency

- a. The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.
- b. The Chairperson of the Scrutiny Committee must agree both that the decision proposed is reasonable and that there are reasonable grounds for treating the decision as a matter of urgency. In the absence of the Chairperson, the Vice-Chairperson of the Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## 16 Procedure at Overview and Scrutiny Committee meetings

### 16.1 Agenda Business

- a. Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
  - (i) Minutes of the last meeting;
  - (ii) Declarations of interest;
  - (iii) Consideration of any matter referred to the Committee;
  - (iv) Responses of the Cabinet to reports of the Scrutiny Committee;
  - (v) Consideration of the forward plan; and
  - (vi) The business otherwise set out on the agenda for the meeting, including the Committee's work plan.
- b. Cabinet Members
  - (i) The Cabinet members will be individually invited to give an account of their portfolio to one of the Scrutiny Committees at least once annually and will answer any questions posed by Committee Members. This attendance shall be in addition to any attendance required or invited by



the Committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be at the discretion of the Chairperson.

c. Investigations

- (i) Where the Overview and Scrutiny Committees conduct investigations (for example, with a view to policy options), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- (ii) That the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (iii) That those assisting the Committee by giving evidence be treated with respect and courtesy at all times; and
- (iv) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (v) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless there is reason for the some of the contents to be exempt in accordance with the Local Government Act 1972.

16.2 Matters within the remit of more than one Overview and Scrutiny Committee

- a. Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, the Monitoring Officer has the discretion to determine which of the Overview and Scrutiny Committees are appropriate for pre-scrutiny purposes. The Committees, through their Chairpersons and with agreement of the Monitoring Officer, may decide to hold a joint meeting of Overview and Scrutiny Committees if they feel this would be a more effective way of carrying out occasional business where there is clearly value in both Committees considering a report simultaneously.

17 The Party Whip

17.1 For the purpose of this section, reference to “the party whip” shall mean:

- a. “Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should they speak or vote in any particular manner.”
- b. As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with each Committee’s terms of reference.

The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committees.

## 18 Councillor Call for Action (CCfA)

18.1 Any Councillor may request that a Scrutiny Committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below. The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.

### 18.2 Councillor Call for Action (CCfA) Protocol

- a. Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Member may call for debate and discussion at Committee of a topic of neighbourhood concern. These powers are limited to an issue which affects a single Council ward. CCfA will be considered by the Scrutiny Committee, whose terms of reference include within its remit, the subject of the CCfA. If in doubt, the Monitoring Officer shall determine which Overview and Scrutiny Committee would be the relevant recipient. In order to initiate the CCfA process, the Chairperson of the relevant Overview and Scrutiny Committee in conjunction with the Monitoring Officer will need to be satisfied that the following criteria have been met:

### 18.3 Criteria

- a. Statutory Regulations specify matters that are excluded from CCfA:
  - (i) Any matter which is vexatious, discriminatory or not reasonable;
  - (ii) Any matter which is the subject of an individual complaint;
  - (iii) Any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
  - (iv) The matter must be one where all other attempts at resolution have been exhausted.

18.4 The following process will need to be followed:

### 18.5 Process

- a. A Member should direct a CCfA request in writing to the Chairperson of the Scrutiny Committee and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
  - (i) The ward concerned and how the issue relates only to that ward;
  - (ii) The views and concerns of local residents;

- (iii) How existing mechanisms for resolution have been tried and exhausted; and
  - (iv) The desired outcomes for resolving the issue.
- b. The scrutiny Chairperson, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the relevant Overview and Scrutiny Committee is appropriate or if an additional meeting needs to be convened.
- c. The Overview and Scrutiny Committee, subject to the necessary notice being given, will be able to request attendance from the relevant Cabinet Member and/or representatives of partner organisations, and/or to request information.
- d. The Overview and Scrutiny Committee should discuss how to achieve the desired outcomes that the member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The Overview and Scrutiny Committee may decide to challenge whether the desired outcome is reasonable.
- e. Whilst there will be no specified procedure for the discussions at Committee, the Scrutiny Chairperson, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
- f. All CCfA requests, whether pursued or not, should be reported to the next relevant Overview and Scrutiny Committee for information. This will enable Overview and Scrutiny Committees to take account of all requests in determining work programmes.

## **Part 4.4 - Access to Information Procedure Rules**

### **1 Scope**

- 1.1 These Paragraphs apply to all meetings of the Council, Scrutiny Committees, regulatory Committees, joint Committees, Sub- Committees, panels and public meetings of the Cabinet (together called meetings). Some aspects also apply to Cabinet Member Decision Days, as indicated.

### **2 Additional rights to information**

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

### **3 Rights to attend meetings of Cabinet and Cabinet Member Decision Days**

- 3.1 Members of the public may attend all meetings and Decision Days subject to the exceptions in these paragraphs and any contrary provision in the Constitution.
- 3.2 Any person is permitted to film or record any meeting of Council, a Committee, Sub-Committee or the Cabinet or Cabinet Member Decision Day, save where the public have been excluded for the consideration of exempt or confidential business. The paragraphs, as prescribed by legislation, will allow for this reporting via social media of any kind. The Council will provide reasonable facilities to facilitate reporting.
- 3.3 Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to, moving outside the area designated for the public, making excessive noise, intrusive lighting/flash or asking a Member to repeat a statement. In addition, members of the public or the public gallery should not be filmed as this could infringe on an individual's right to privacy, if their prior permission had not been obtained. Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairperson and may be asked to leave the meeting.

### **4 Notices of meeting and Cabinet Member Decision Day**

- 4.1 The Council will give at least five clear working days' notice of any meeting except where an urgent meeting is convened by posting details of the meeting. This includes Cabinet Member Decision Days.

### **5 Access to agenda and reports before the meetings of Cabinet and Cabinet Member Decision Day**

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the designated office at least five clear working days before the meeting or Cabinet Member Decision Day. If an item is added to the agenda after publication, this will be included on

a supplementary agenda (where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) which will be open to inspection from the time the item was added to the agenda.

## 6 Access to documents after the meeting

- 6.1 In addition to publishing information on the Council's website, the Council will make available upon request, copies of the following for six years after a meeting:
- a. The minutes of the meeting, reports and records of decisions taken, together with reasons, for all meetings which were open to the public. However, where the meetings discuss exempt or confidential information, the minutes open to the public will only include a record of the proceedings and the decision. The Council aims to publish draft minutes of meetings as soon as reasonably practicable following the meeting;
  - b. Records of Executive decisions taken by Individual Cabinet Members or Officers including the reasons for the decision and any alternative options considered and rejected. They will be published and made available as soon as reasonably practicable after they have been taken;
  - c. The agenda for the meeting;
  - d. The decision made at a Cabinet Member Decision Day.
- 6.2 The Council will itself record and stream the proceedings of meetings, as standard save when the public have been excluded for the consideration of exempt or confidential business.
- 6.3 The recording will be available for public viewing via the Council's website for access after the meeting has taken place. Recordings of meetings will be made available in accordance with the Council's retention policy and in accordance with data protection law.
- 6.4 The Council reserves the right to terminate or suspend the webcasting of the meeting, The Council has the discretion to terminate or suspend the webcast if in its opinion that continuing to would disrupt or prejudice the proceedings, infringe the rights of any individual or may lead to the breach of a legal obligation by the council.

- 7 Background papers
  - 7.1 List of background papers
  - 7.2 The author of the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in the report author's opinion:
    - a. Disclose any facts or matters on which the report or an important part of the report is based; and
    - b. Which have been relied on to a material extent in preparing the report;
  - 7.3 But do not include published works or those which disclose exempt or confidential information (as defined in Paragraph 8.4 below).
  - 7.4 Public inspection of background papers The Council will make available for public inspection for six years after the date of the meeting or Cabinet Member Decision Day, one copy of each of the documents on the list of background papers.
  - 7.5 Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection. Arrangements for inspection should be made through Democratic Services Team at the designated office and on the Council's website. In the case of reports to the Executive or Cabinet Member Decision Day, the background papers will be published on the Council's website, subject to Paragraph 9 below. The Council may make a reasonable charge for access to background papers to be inspected at the Council's offices.
- 8 Exclusion of access by the public to meetings and Cabinet Member Decision Days
  - 8.1 Confidential information – requirement to exclude the public
    - a. The public must be excluded from meetings or Cabinet Member Decision Days whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
    - b. A decision to exclude the public is to be made by resolution of the meeting (or, in the case of a Decision Day, the Cabinet Member).
  - 8.2 Meaning of confidential information
    - a. Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order or other information provided by a third party who is owed a statutory or common law duty of confidentiality.

### 8.3 Exempt information – discretion to exclude the public

- a. The public may be excluded from meetings or Cabinet Member Decision Days whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed which falls into one of the seven definitions of information that is exempt from disclosure to the public and press which is at paragraph 8.4 below.

### 8.4 Meaning of exempt information

- a. Exempt information means any information falling within the following seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):
  - (i) Information relating to any individual
  - (ii) Information which is likely to reveal the identity of an individual
  - (iii) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  - (iv) Information is not exempt information if it is required to be registered under:
    - (v) The Companies Act 2006;
    - (vi) The Friendly Societies Act 1974;
    - (vii) The Friendly Societies Act 1992;
    - (viii) The Industrial and Provident Societies Acts 1965 to 1978;
    - (ix) The Building Societies Act 1986; or
    - (x) The Charities Act 1993.
- b. “Financial and business affairs” includes contemplated, as well as past or current activities.
- c. 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. Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1) (a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992.

### 8.5 These matters also apply to office holders as to employees.

- a. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- b. Information which reveals that the authority proposes:
  - (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

(ii) To make an order or direction under any enactment.

8.6 Information relating to any action, or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.

8.7 Notes:

a. Information falling within any of categories 1-7 is not exempt by virtue of that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992;

b. Information which:

(i) Falls within any of categories 1 to 7 above; and

(ii) Is not prevented from being exempt by virtue of the condition is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information;

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

9 Exclusion of access by the public to reports

9.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Paragraph 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

10 Application of paragraphs to the Executive

10.1 Paragraphs 11 – 22 apply to the Executive, its Committees and Executive Members.

11 Procedures prior to private meetings

11.1 At least 28 clear days before a private meeting of the Cabinet

a. Notice of Intention to hold the meeting must be made available at the Council's offices; and

b. That Notice must be published on the Council's website.

11.2 The Council's Forward Plan will be used to publish notice under this paragraph.



- 11.3 The Notice under paragraph 12.1 must include:
- a. A statement of the reasons for the meeting being held in private.
  - b. Details of any representations received by the Cabinet about why the meeting should be open to the public; and
  - c. A statement of its responses to any such representations.
- 11.4 Where the date by which a meeting must be held makes compliance with paragraph 12.1 impracticable, the Chief Executive must obtain agreement from:
- a. The Chairperson of the Overview and Scrutiny Committee; or
  - b. If the Chairperson of the Overview and Scrutiny Committee is unable to act, the Chairperson of the Council; or
  - c. Where there is no Chairperson of either the Overview and Scrutiny Committee or of the Council, the Vice-Chairperson of the Council, that the meeting is urgent and cannot reasonably be deferred.
- 11.5 As soon as reasonably practicable after the Chief Executive has obtained agreement under paragraph 11.4 to hold a private meeting, they must:
- a. Make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
  - b. Publish that notice on the Council's website
- 12 Attendance at private meetings of the Cabinet
- 12.1 All Members of the Cabinet will be served notice of, and are entitled to attend, all private meetings of the Cabinet. The Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and Directors in light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend.
- 12.2 The provisions of paragraph 3.2 will not apply.
- 13 Rights of non-executive members
- 13.1 Any request for documentation made to Democratic Services will be provided as soon as reasonably practicable, but no later than 10 clear days after the request is made, subject to paragraph 13.3.
- 13.2 If the Executive determines that material will not be provided, it must provide the Member with a written statement, setting out its reasons for that decision.
- 13.3 Please note that any request made will have the usual tests applied under Access to Information rules and consequentially any such request must relate only to documentation that is in the possession or under the control of the

executive and contain material relating to any business to be transacted at a public meeting.

14 Procedures prior to public meetings of Cabinet and Cabinet Member Decision Days

14.1 The Council will give notice of the time and place of a public meeting by displaying it at the Council's offices and publishing it on the Council's website,

- a. At least five clear working days before the meeting; or
- b. Where the meeting is convened at short notice, at the time that the meeting is convened.

14.2 An item of business may only be considered at a public meeting:

- a. Where a copy of the agenda or part of the agenda including the item has been available for inspection by the public for at least five clear working days before the meeting; or
- b. Where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened;
- c. Where an item which would be available for inspection by the public is added to the agenda, copies of the supplementary agenda and any report relating to the item for consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.

14.3 Provisions of these procedure rules apply to Cabinet Member Decision Days.

15 Access to agenda and connected reports for public meetings and Cabinet Member Decision Days

15.1 A copy of the agenda and every report for a meeting will be made available for inspection by the public at the Council's offices and on the Council's website.

15.2 If the Monitoring Officer thinks fit, there may be excluded from the copy of any report the whole, or any part which relates only to matters during which, in the opinion of the Monitoring Officer the meeting is likely to be a private meeting.

15.3 A copy of the agenda item or report will not be available for inspection by the public until a copy is available to Members of the Council. Where the whole or a part of a report for a public meeting is not available for inspection by the public:

- a. Every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication" and
- b. There must be stated on every copy of the whole or part of the report
  - (i) That it contains confidential information; or

- (ii) The description of exempt information by virtue of which the Cabinet or Cabinet Member is likely to exclude the public during the item to which the report relates.

15.4 Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

15.5 Unless they contain confidential or exempt information, following a request made by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council will supply to that person or newspaper:

- a. A copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;
- b. Such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and
- c. If the Monitoring Officer thinks fit in the case of any item, a copy of any other document supplied to Members of the Cabinet in connection with the item.

15.6 Provisions of these procedure rules apply to Cabinet Member Decision Days.

16 Publicity in connection with key decisions; the 'forward plan'

16.1 Where a decision maker intends to make a key decision, the Council will publish, a document, known as the 'Forward Plan' which states:

- a. That a key decision is to be made on behalf of the Council;
- b. The matter in respect of which the decision is to be made;
- c. Where the decision maker is an individual Cabinet Member or officer, that individual's name and title/ area of responsibility as appropriate, or if the decision maker is the Cabinet, a list of Cabinet Members;
- d. The date on which, or the period within which, the decision is to be made;
- e. A list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- f. The address from, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed are available;
- g. That other documents relevant to those matters may be submitted to the decision maker; and
- h. The procedure for requesting details of those documents (if any) as they become available.

16.2 At least 28 clear days before a key decision is made, the document must be made available for inspection by the public at the Council's offices and on the Council's website.

16.3 Where, in relation to any matter:

- a. The public may be excluded from the meeting at which the matter is to be discussed; or
- b. Documents relating to the decision need not, be disclosed to the public, the document will contain particulars of the matter but many not contain any confidential or exempt information.

17 General exception and special urgency

17.1 If it is not possible to meet the requirements to give notice of a key decision laid out in paragraph 17.2 below, the making of the key decision can proceed so long as:

- a. The Monitoring Officer has sought and received in writing the agreement of the Chairperson of the Overview and Scrutiny Committee or, in their absence, the Vice-Chairperson of the Overview and Scrutiny Committee, to the general exception to the notice requirements; and
- b. The Monitoring Officer has made available at the Council's offices for inspection by the public and has published on the Council's website, a copy of the notice of the decision, including the reasons why compliance with the publicity requirement is impracticable; and
- c. Five working days have elapsed following the day on which the Monitoring Officer made

17.2 Where there is special urgency, the requirement in paragraph 17.1(c) above to give five working days' notice of the key decision may be withdrawn so long as requirements (a) and (b) in paragraph 17.1 above are met. In such cases, the notice of the key decision must include the reasons for the special urgency.

18 Recording of Executive decisions made at meetings

18.1 As soon as reasonably practicable after any meeting of the Cabinet or its Committees or Cabinet Member Decision Day at which an Executive decision was made, the Monitoring Officer, must ensure that a written statement is produced for every Executive decision made which includes the information specified in paragraph 19.2.

18.2 The statement referred to in paragraph 19.1 must include:

- a. A record of the decision including the date it was made;
- b. A record of the reasons for the decision;

- c. Details of any alternative options considered and rejected by the Chief Executive at the meeting which the decision was made;
- d. A record of any conflict of interest relating to the matter decided which is declared by any Member of which the decision was made;
- e. In respect of any declared conflict of interest, a note of the dispensation granted.

18.3 Recording of Executive decisions made by Cabinet Members and key decisions made by officers acting under delegated authority

18.4 As soon as reasonably practicable after a Cabinet Member has made an Executive decision or an officer has made a key decision, the Monitoring Officer will produce a written statement of that Executive decision which should include the information specified in paragraph 20.2.

18.5 The Statement referred to in paragraph 19.1 must include:

- a. That a key decision has been made and details of the matter excluding any confidential or exempt information;
- b. The date it was made;
- c. The reasons for the decision;
- d. Details of any alternative options considered and rejected by the decision maker when making the decision;
- e. A record of any conflict of interest declared by any Executive Member who was consulted in relation to the decision; and
- f. In respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

19 Recording of other decisions by officers

19.1 Officer decisions of a significant nature, though not executive decisions made under delegated authority nor meeting the criteria for a key decision, should be recorded in writing as soon as reasonably practicable after the decision has been made. Such decisions are likely to be significant within the meaning of this rule where they:

- a. Grant a permission or
- b. Affect an individual's rights; or
- c. Award a contract; or
- d. Incur expenditure at a level which does not render it a key decision but would reasonably be expected to materially affects the Council's finances; or

e. May be reasonably expected to have an impact on the Council's reputation.

19.2 The written record must contain the following information:

- a. The date the decision was made;
- b. A record of the decision taken along with the reasons for the decision;
- c. Details of alternative options, if any, considered and rejected; and
- d. Where relevant, any conflicts of interest declared.

20 Inspection of documents following Executive decisions

20.1 Unless they contain confidential or exempt information, after a meeting of the Cabinet or its Committees or Cabinet Member Decision Days at which an Executive decision has been made, or after a Cabinet Member or an officer has made an Executive decision the Monitoring Officer must ensure that a copy of:

- a. Any record of the decision; and
- b. Any report considered at the meeting or Cabinet Member Decision Day or, considered by the Cabinet Member or officer and relevant to a decision record or, where only part of the report is relevant to such a decision, that part must be available for inspection by members of the public as soon as is reasonably practicable, at the Council's offices, and on the Council's website.

20.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection, those documents will be supplied for the benefit of the newspaper by the Council on payment by the newspaper of postage, copying or other necessary charge for transmission.

21 Additional rights of access to documents for Members of Local Authorities

21.1 Subject to paragraphs 21.6, any document which

- a. Is in possession or under the control of the Cabinet; and
- b. Contains material relating to any business to be transacted at a public meeting, will be available for inspection by any Member of the Council.

21.2 Any document which is required by paragraph 21.3 to be available for inspection by any Member of the Council must be available for such inspection for at least five clear days before the meeting except that:

- a. Where the meeting is convened at shorter notice, such as a document must be available for inspection when the meeting is convened; and

- b. Where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 21.1 in relation to that item must be available for inspection when the item is added to the agenda.

21.3 Subject to paragraphs 21.6 to 21.7, any document which:

- a. Is in the possession or under the control of the Cabinet; and
- b. Contains material relating to:
  - (i) Any business transacted at a private meeting;
  - (ii) Any decision made by a Cabinet Member;
  - (iii) Any decision made by an officer in accordance with Cabinet arrangements;

21.4 Must be available for inspection by any Member of the Council when the meeting concludes or where an Executive decision is made by a Cabinet Member or an officer immediately after the decision has been made.

21.5 Any documents which are required by paragraph 21.3 to be available for inspection by any Member must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

21.6 Paragraphs 21.1 and 21.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

21.7 Notwithstanding paragraph 21.5, paragraphs 21.1 and 21.3 do require the document to be available for inspection if the information:

- a. Relates to the financial or business affairs of any particular person (including the authority holding that information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or
- b. Reveals that the authority proposes:
  - (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) To make an order or direction under any enactment.

21.8 Where there is uncertainty the Monitoring Officer will determine what information can be accessed.

21.9 These rights are in addition to any other rights that a Member may have.

## 22 Document retention schedule

22.1 The Council's document retention schedule can be found on the Council's website



## Part 4.5 - Policy and Budget Framework Procedure Rules

- 1 The framework for executive decisions
  - 1.1 The Council will be responsible for the adoption of its Policy and Budget Framework. Once a policy or budget framework is in place, it is the responsibility of the Cabinet to implement it.
- 2 Process for developing the Policy Framework
  - 2.1 Normally, in the development of the Policy Framework, the Cabinet will liaise with the Overview and Scrutiny Committees and the Audit and Governance Committee, as appropriate and within their terms of reference, to ensure that matters can be given proper consideration as part of the work programmes of these Committees.
  - 2.2 However, the formal process by which the Policy Framework shall be developed is as follows.
  - 2.3 Prior to Cabinet consideration:
    - a. The Cabinet will publicise, by including in the Forward Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any new or significantly revised policy or strategy that forms part of the Policy Framework. Where consultation on a draft policy is due to take place, the Forward Plan will also set out the timetable for Cabinet consideration of the draft for consultation; and
    - b. Regarding consultation on draft policies, where a policy is to be consulted on in draft form, the Overview and Scrutiny Committees and the Audit and Governance Committee may wish to investigate, research or report in detail with policy recommendations before the end of the consultation period.
  - 2.4 Preparation of final proposals by Cabinet
    - a. At the end of any consultation period, the Cabinet will approve its own final proposals for submission to Full Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Overview and Scrutiny Committees or Audit and Governance Committee. Its report to Full Council will reflect the comments made by consultees and/or the Committees and the Cabinet's response.
    - b. Full Council will consider the proposals of the Cabinet and may:
      - (i) Adopt them;
      - (ii) Amend them;
      - (iii) Refer them back to the Cabinet for further consideration; or
      - (iv) Substitute its own proposals in their place.

- 2.5 In considering the matter, Full Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny Committees or Audit and Governance Committee.
- 2.6 The Council's decision will be published on the Council's website and drawn to the attention of the Leader.
- 2.7 The notice of decision shall be dated and state either that the decision shall be effective immediately (if the Full Council accepts the Cabinet's proposals without amendment). Alternatively, if the Cabinet's proposals are not accepted without amendment, the decision must inform the Leader of the reasons and any objections which the Full Council has and require the Cabinet to reconsider, in the light of those objections, the proposals submitted to it.
- 2.8 The Full Council's decision will become effective on the expiry of five clear days after the publication of the notice of decision, unless the Leader objects to it in that period.
- 2.9 If the Leader objects to the decision of Full Council, they shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must either:
  - a. Submit a revision of the proposals as amended by the Cabinet (the "revised proposals"), with the Cabinet's reasons for any amendments made to the proposals, to Full Council for the Council's consideration; or
  - b. Inform Full Council of any disagreement that the Cabinet has with any of the Full Council's objections and the Cabinet's reasons for any such disagreement.
- 2.10 Where such notification is received, the Chief Executive shall refer the matter to the next ordinary meeting of Full Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an extraordinary meeting of Full Council if the matter is too urgent to await the next ordinary meeting.
- 2.11 At that Full Council meeting, the decision of Full Council shall be reconsidered in the light of the revised proposals or the objections which shall be available in writing for the Council.
- 2.12 Full Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public unless exemptions apply and shall be implemented immediately.
- 2.13 In approving the Policy Framework, Full Council will also specify the degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet. Any other changes to the Policy and Budget Framework are reserved to the Council.

- 3 Process for developing the budget framework
  - 3.1 The Cabinet shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:
    - a. An early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium-term financial situation of the Council;
    - b. An overview of the financial position in the coming financial year following publication of the settlement details of the anticipated funding from Central Government; and
    - c. Detailed consideration of items of growth or potential savings.
  - 3.2 Prior to Cabinet consideration, the Cabinet will publicise, by including in the Forward Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget Framework, and its arrangements for consultation. The Chairpersons of the Overview and Scrutiny Committees and Audit and Governance Committee will be notified. The consultation period shall in each instance be not less than six weeks.
  - 3.3 If the Overview and Scrutiny Committees and Audit and Governance Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As these Committees have responsibility for fixing their own work programme, it is open to either Committee to investigate research or report in detail to Cabinet with budgetary recommendations before the end of the consultation period.
  - 3.4 If the Overview and Scrutiny Committees and Audit and Governance Committee all wish to respond to the Cabinet, a joint meeting of the Scrutiny Committee may be called.
  - 3.5 Preparation for the formal budget meeting shall be as follows.
    - a. Full Council will hold its formal budget meeting in February or March when the Cabinet will present its proposals.
    - b. The budget proposals presented by the Cabinet will have taken consideration of the views of the public, staff, members of the Overview and Scrutiny Committees and Audit and Governance Committee, as appropriate and within their terms of reference and other consultees.
    - c. All potential amendments to the budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all

proposed amendments to the budget will therefore be notified in advance to the Chief Executive and Section 151 Officer.

- d. At the budget meeting, the Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the Council and its preceptors can be collected.

#### 4 Decisions outside the Budget and Policy Framework

4.1 Subject to the provisions of Rule 6 (virement) below and [Financial Procedure Rule 8.2](#), the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging executive functions may only take decisions which are in line with the Policy and Budget Framework., the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging executive functions may only take decisions which are in line with the Policy and Budget Framework.

4.2 If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to Rules 5 (urgency) and 7 (in year changes) below.

4.3 If the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and the Section 151 Officer as to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget or contrary or not wholly in accordance with the Financial Procedural Rules in this Constitution.

4.4 If the advice of either of those officers is that the decision would not be in line with the existing budget and Policy Framework, then the decision must be referred to Full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 (Urgency) shall apply.

#### 5 Urgent decisions outside the Budget and Policy Framework

5.1 The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet, officers or joint arrangements discharging executive functions may take a decision which is contrary to policy or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. However, the decision may only be taken if:

- a. It is not practical to convene a quorate meeting of the Full Council. The reasons for not being able achieve a quorum must be recorded: and

- b. The Chairperson of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency. In the absence of the Chairperson of the Overview and Scrutiny Committee the consent of the Vice-Chairperson of the Scrutiny Committee will be sufficient; and
  - c. The Council's Financial Procedure Rules are complied with in all other respects.
- 5.2 Following the decision, the decision maker 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.
- 6 Virement
- 6.1 The Council shall have sufficient budget holders to enable service delivery and effective budgetary control in line with the Council's Policy and Budget Framework.
- 6.2 Steps taken by the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed the budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads – as follows:
- a. The Cabinet – non-recurring expenditure of up to £1,000,000 in any one case within budget allocations to functions which are the responsibility of the Cabinet;
  - b. Authorised officers – provided that it does not constitute a Key Decision, Chief Officers and Strategic Directors shall be authorised to undertake virements of up to £250,000 on behalf of the Cabinet in any one case between the budgets under their control, subject to consultation with the relevant Cabinet Member(s), the Leader and the Section 151 Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the Section 151 Officer in a format approved by them and reported to Cabinet via budget monitoring reports; and
- 6.3 One-off revenue budgets may be created in-year through a budget virement funded by an earmarked reserve. The budget must be in line with the purpose of the earmarked reserve and approved by the Section 151 Officer. Any in-year unbudgeted contributions from reserves exceeding £500,000 will need to be approved by Cabinet; those at the year-end are seen by Full Council as part of approving the Council's financial statements.
- 6.4 Where external revenue funding is received in-year the budget holder must ensure a budget virement creates the necessary income and expenditure budgets which are in line with the award of funding. Prior approval must be sought from the Section 151 Officer and does not apply to any capital

expenditure which must follow normal capital procedures even where external funding is received.

## 7 In-year changes to Policy and budget Framework

7.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet an individual member of the Cabinet, officers or joint arrangements discharging executive functions must (subject to Rule 5 urgency) be in line with that framework. No changes to the Policy and budget Framework may be made by those bodies or individuals except those changes:

- a. Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b. Which are necessary to implement a budget decision made by the Council;
- c. Necessary to ensure compliance with the law, ministerial direction or government guidance where there is no discretion how to act; or
- d. In respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## 8 Call-in of decisions outside the Policy and Budget Framework

8.1 Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made, would be contrary to policy, or contrary to or not wholly in accordance with the budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

8.2 The Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer or Section 151 officer's report. The Cabinet must prepare a report to the Council if the Monitoring Officer or the Section 151 Officer concludes that the decision was a departure; and the Scrutiny Committee if the Monitoring Officer or the Section 151 Officer concludes that the decision was not a departure.

8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to Full Council. In such cases, no further action will be taken in respect of the decision or its implementation until Full Council has met and considered the matter. The matter will be referred to the next ordinary meeting of Full Council except in cases of urgency when an extraordinary meeting will be called. At the

meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. Full Council may either:

- a. Endorse a decision or proposal of the Cabinet decision maker as falling within the existing budget and Policy Framework. In this case no further action is required;
- b. Amend the Council's [Financial Procedure Rules](#) or policy concerned and agree to the decision with immediate effect; or
- c. Accept the decision or proposal is contrary to policy or contrary to or not wholly in accordance with the budget, and not amend the existing framework to accommodate it, but require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Section 151 Officer.

## Part 4.6 - Financial Procedure Rules

### 1 General Matters

- 1.1 In accordance with the [Policy and Budget Framework Rules](#) the allocation and control of financial resources is the responsibility of Cabinet. the allocation and control of financial resources is the responsibility of Cabinet.
- 1.2 Where these regulations refer to Cabinet or a Committee this is intended to include any Cabinet Committee, Sub-Committee or Cabinet Member Decision Day or by making decisions under the powers delegated to them in this Constitution.
- 1.3 A Strategic Director within these rules is defined as a member of the Executive Leaders' Board.
- 1.4 Where these Regulations refer to the Chief Executive, the Section 151 Officer, a Strategic Director, Corporate Head of Service or Head of Programme this is intended to include their authorised representative.
- 1.5 A Team within these regulations is defined as an area of activity or group of activities under the direction of a Corporate Head of Service. A Strategic Director may also undertake any function allocated to a Corporate Head of Service or Head of Programme in the areas for which they are responsible.
- 1.6 Cabinet and each Committee with a budget shall be responsible for ensuring that these Financial Procedure Rules shall be observed as they relate to areas under its control.
- 1.7 The Section 151 officer shall be consulted with respect to any matter within an officers area of responsibility which is liable to have a material impact on the Council's finances before any provisional or other commitment is entered into or before reporting thereon to Cabinet or any Committee.

### 2 Accounting

- 2.1 All accounting arrangements and appropriate records shall be subject to the approval and control of the Section 151 officer.
- 2.2 Disposal of accounting and other financial records shall be carried out in accordance with instructions issued by the Section 151 officer.
- 2.3 Each Corporate Head of Service shall be responsible for ensuring that financial records within their control are reconciled to the Council's computerised financial management system in accordance with instructions issued by the Section 151 officer.



- 2.4 The Section 151 officer shall report to the appropriate performance monitoring body at regular intervals, or as appropriate, on the current financial position of the Council and shall report as soon as possible after the end of the financial year on the Council's annual accounts. Within the statutory period the Section 151 officer shall present the Statement of Accounts to the appropriate Committee as determined by Council for consideration and final approval. In the absence of any Committee being established by Council for this purpose the Accounts shall be submitted to Council for approval.
- 2.5 During the course of the year the Section 151 officer shall produce for the guidance of Officers and Members such financial information as may be necessary for the efficient conduct of their business.
- 3 Authorisations to certify payments to creditors
- 3.1 The maximum value of each invoice which an officer is authorised to certify is restricted to the following:
- a. Officer holding a budget responsibility – up to £20,000
  - b. Service Lead (depending on delegation) - up to £50,000
  - c. Corporate Head of Service/Head of Programme – up to £250,000
  - d. Strategic Director – up to £500,000
  - e. Chief Executive/Section 151 Officer – over £500,000
- 3.2 Prior approval must be obtained from the Section 151 Officer if an officer is to certify payments in excess of those limits shown above.
- 3.3 These limits do not automatically authorise all officers to certify invoices, only those officers who are specifically designated to do so.
- 4 Audit
- 4.1 The Section 151 officer shall be responsible for providing a continuous internal audit service in accordance with the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom.
- 4.2 To enable them to carry out their responsibilities under Financial Procedural Rule 4.1 above, the Section 151 officer or, if appropriate, the Chief Executive, shall be entitled:
- a. To have access to all appropriate records, documents, correspondence, etc. including all those in electronic form;
  - b. To enter at reasonable times on any Council premises or land; and

- c. To require such information and explanations from any Officer or Member of the Council as are necessary concerning any matter under examination.
- 4.3 To enable them to carry out their responsibilities under Financial Procedure Rule 4.1 above, the Section 151 officer, in consultation with the Strategic Director or Corporate Head of Service/Head of Programme concerned or the Chief Executive, as appropriate, shall be authorised to seek information from the public.
- 4.4 The Section 151 officer shall have the authority to require any officer of the Council to produce on demand cash, stores or any other Council property under their control. The Section 151 officer shall be notified immediately, by the Service Lead concerned, of any circumstances that may suggest the possibility of any irregularity affecting cash, stores or any other property of the Council.
- 4.5 Officers shall notify the Section 151 officer and/or Internal Audit of any circumstances that may suggest the possibility of suspected fraud.
- 4.6 The Section 151 officer shall report to the relevant Strategic Director, Corporate Head of Service/Head of Programme, Service Lead and to the Chief Executive as appropriate of any suspected fraud or irregularity.

## 5 Banking Arrangements

- 5.1 All arrangements with the Council's bankers concerning the Council's bank accounts and the issue of cheques shall be made through the Section 151 officer who is authorised to operate such bank accounts as may be necessary.
- 5.2 All cheques drawn on behalf of the Council shall bear the facsimile signature of the Section 151 officer or shall be signed by them, or such other officer authorised by them.
- 5.3 The Section 151 officer shall be responsible for the ordering and safe custody of new cheques.
- 5.4 No cash payments in excess of £10,000 will be accepted unless procedures in compliance with money laundering regulations are observed.

## 6 Borrowing and Investments

- 6.1 All investments and borrowings shall be made in the name of the Council.
- 6.2 All securities that are the property of, or are in the name of, the Council shall be held in the custody of the Section 151 officer.
- 6.3 The Section 151 officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowings by the Council.

- 6.4 This Council adopts the key principles of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code of Practice).
- 6.5 Accordingly, this Council will create and maintain, as the cornerstones for effective treasury management:
- a. A treasury management policy statement, stating the policies and objectives and approach to risk management of its treasury management activities
  - b. Suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 6.6 The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code of Practice, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.
- 6.7 Full Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Section 151 officer, who will act in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice.
- 6.8 Full Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year.
- 6.9 The Council nominates the Audit and Governance Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies, including a mid-year review and an annual report after close of the year. The Committee shall also review and approve changes to the TMPs.

## 7 Budgets

- 7.1 The detailed form of capital programmes and revenue budgets shall be determined by the Section 151 officer.
- 7.2 Capital programmes and revenue budgets shall be prepared by each Service Lead in consultation and jointly with their Corporate Head of Service and the Section 151 officer who shall collate them for consideration by the Executive Leadership Board and the appropriate Committees.
- 7.3 The Section 151 officer shall submit to the Cabinet a capital programme and revenue budget for such future periods and by such dates as the Cabinet shall require.

- 7.4 The inclusion of a scheme in a capital programme shall not constitute authority to incur expenditure until the details of such expenditure has been submitted by the appropriate Service Lead in consultation with their Corporate Head of Service/Head of Programme and the Section 151 officer and the scheme approved by:
- a. For schemes up to £250,000 - the Section 151 officer;
  - b. For schemes up to £2,000,000 - by a Cabinet Member at a Decision Day
  - c. For schemes over £2,000,000 - Cabinet or relevant Cabinet Committee
- 7.5 In the case of all proposed schemes a financial appraisal shall be included in the decision-making report or otherwise set out by the Section 151 officer or deputy.
- 7.6 Winchester Town Forum may authorise incurring expenditure up to a limit of £250,000 on Town Account capital schemes within the approved capital programme without a separate report to Cabinet.
- 7.7 The Corporate Head of Housing, in consultation with the Section 151 officer, shall present a draft Business Plan, including the Housing Investment Programme (HIP), to The Overview and Scrutiny Committee which shall make recommendations to the Cabinet and Full Council on the Programme to be approved, including the likely implications in respect of the current capital controls.
- 7.8 The Corporate Head of Housing, in consultation with the Section 151 officer, shall present a draft Housing Revenue Account (HRA) budget to the Scrutiny Committee which shall make recommendations to Cabinet and Full Council on any rent increase that may be necessary to ensure that the appropriate regulations relating to the HRA are complied with.
- 7.9 The Section 151 officer will report to the Cabinet on the capital programme with an indication of the likely implications in respect of the Prudential Code for Capital Finance in Local Government.
- 7.10 The Section 151 officer will report to the Cabinet on the General Fund budget including the resources available to meet the net expenditure at a date which will allow appropriate time to make recommendations to the Council in accordance with the legislation relating to setting the annual local tax.
- 8 Budgetary Control
- 8.1 It shall be the duty of each Strategic Director to monitor and regulate the financial performance in relation to budgets under their control during the currency of each budget period.

- 8.2 Requests for changes to the Capital Programme of up to £100,000 can be authorised by the Programme and Capital Strategy Board and then signed off by the Section 151 Officer. Requests for changes over £100,000 and up to £500,000 must be submitted for approval to the Cabinet after consultation with the Section 151 Officer. Requests for supplementary capital estimates in excess of £500,000 must be approved by Full Council.
- 8.3 Where the provision in a revenue budget will be exceeded (whether through excess expenditure or reduced income) the relevant Director, may request that a supplementary estimate be approved by the Cabinet or, if in excess of £500,000, by the Council. Before supplementary estimates are approved during any financial year, the costs, if any, in future years must also be reported.
- 8.4 A supplementary estimate will not be required if, in the opinion of the relevant Corporate Head of Service/Head of Programme and the Section 151 officer, the additional net expenditure can be met by transferring budget provision from one budget head to another (subsequently referred to as virement) provided that:
- a. Virement within a services budget is delegated to Corporate Heads of Service/Head of Programme and;
  - b. Virement across services can be approved by Corporate Heads of Service/Head of Programme
  - c. Any virement which may commit the Council to increased net expenditure during any future year will require the approval of the Cabinet.
  - d. Virement in excess of £250,000 in total in relation to a Corporate Head of Service as outlined in (a) above in any one year shall require the approval of the Cabinet and in excess of £1,000,000, the Council.
- 8.5 Subject to, in respect of virements under (a) and (b) above: -
- 8.6 The virement being in respect of a budget over which the Corporate Head of Service/Head of Programme has direct control and that the base budget is not increased; and
- 8.7 Where the virement would affect budgets over which the Corporate Head of Service/Head of Programme does not have direct control the Corporate Head of Service/Head of Programme for the service agreeing that service's base budget will not be increased.
- 8.8 Please also refer to Part 4.5 of the [Policy and Budget Framework Procedure Rules](#) section 6 (virement).
- 8.9 Virement is not appropriate where there will be savings in one Fund and additional costs incurred in another Fund (for example, a virement between the General Fund or the Housing Revenue Account).

- 8.10 Winchester Town Forum may authorise virement of a sum of £250,000 or less in total in any one year between budget heads subject to:
- a. The virement being in respect of a budget within the S35 Town Account and that the base budget is not increased; and
  - b. Where in the opinion of the Section 151 officer the provisions of the Council's Financial Procedure Rules on virement (Rules 7.4 (b) to (d) are met.
- 8.11 Whenever it is proposed to seek approval of Full Council to incur expenditure, whether capital or revenue, for which there is no budget provision, the Cabinet shall consider a report from the Strategic Director or Corporate Head of Service/Head of Programme concerned which shall incorporate a statement prepared jointly with the Section 151 officer on the financial aspects of the proposal.
- 8.12 Carry forward to a future financial year of any unspent one-off budget is delegated in full to the Section 151 officer where they are satisfied that the proposals for spending them in the following year are consistent with the relevant policies.
- 8.13 Proposals to make prior commitments with regard to future budgets, but within existing baseline budgets, either capital or revenue, require Section 151 officer approval if they exceed £250,000.
- 8.14 Nothing in these Regulations shall prevent a Strategic Director, Corporate Head of Service/Head of Programme or Service Lead from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency subject to its emergency status being approved where possible by the Chief Executive, or in their absence, a Strategic Director or the Section 151 officer, or Monitoring Officer, and a report made to Cabinet as soon as practicable thereafter on the use of emergency powers and the budget implications.
- 8.15 The estimated final cost of every capital scheme shall be reported to the Cabinet, together with explanations of variations in expenditure from the approved estimate.
- 8.16 Any scheme in the capital programme which is over £1m in total requires the business case to be approved by Cabinet.
- 8.17 The Section 151 officer must be notified of any application for or receipt of any credit approval, supported capital expenditure approval or revenue or capital grant as these may have Prudential Code implications.
- 8.18 In respect of asset disposals, the relevant Corporate Heads of Service for Asset Management responsibilities have delegated authority for asset disposals up to £250,000 subject to the proviso that any disposal that is being sought at less

than best value receives approval from the Cabinet Member with responsibility for Asset Management and approval of Section 151 Officer. For asset disposals above £250,000, Cabinet approval must be sought.

## 9 Contracts

- 9.1 All contracts on behalf of the Council shall be subject to the [Contract Procedure Rules](#) which should be read in conjunction with these Financial Procedure Rules.
- 9.2 Each Corporate Head of Service/Head of Programme and Service Lead shall comply with instructions issued by the Section 151 officer and Monitoring Officer on the procedures for compiling the List of Tenderers as referred to in the Contract Procedure Rules relating to contracts.
- 9.3 The Section 151 officer shall be informed of all contracts, agreements, awards or other instruments, money or other consideration on behalf of the Council where the value involved shall be more than £100,000 before a commitment is entered into.
- 9.4 If any variation to a contract in excess of £1m for building or construction works (including the cumulative effect of previous variations to the contract) will result in the total cost of the scheme exceeding the approved estimate by more than 10% then the appropriate Corporate Head of Service/Head of Programme and Service Lead, in conjunction with the Section 151 Officer, will present an updated financial appraisal to the next meeting of The Overview and Scrutiny Committee and Cabinet explaining the reasons for the increased cost.
- 9.5 In respect of contracts of more than £50,000 the appropriate Service Lead shall keep appropriate records of payments to contractors to show the state of account of each contract (including related professional fees). These payments on account shall be authorised only by a certificate signed by the appropriate Service Lead showing the total value of the contract, the value of work executed to date, the value of retentions to date, the amount paid to date and the amount certified for payment.
- 9.6 Each Corporate Head of Service/Head of Programme responsible for contracts shall ensure that there are suitable monitoring procedures in place within their Team to ensure adequate control of all contracts in accordance with instructions issued by the Section 151 officer.
- 9.7 The final certificate on a contract or accepted estimate shall not be issued by the appropriate Service Lead until a detailed statement of account has been produced together with such vouchers and documents as the Section 151 officer may require.

- 9.8 Where a consultant has been appointed it shall be the duty of the appropriate Service Lead to ensure that these Financial Procedure Rules are complied with.
- 9.9 Where works, goods or services of a particular kind are likely to be required regularly or frequently during any period not exceeding two years their price or value shall be aggregated for the purposes of the Contract Procedure Rules relating to contracts where it would be practicable for the Council to enter into a single contract. Each Service Lead shall be responsible for identifying works, goods or services to which this regulation applies as regards their own team.
- 10 Petty Cash Accounts
- 10.1 The Section 151 officer will authorise such petty cash accounts as they consider appropriate for such Officers of the Council as may need them for the payment of expenses of the Council.
- 10.2 No income received on behalf of the Council may be paid into a petty cash account but must be banked or paid to the Authority as provided for in Procedural Rule 12.2 (income).
- 10.3 Petty cash payments shall be limited to minor items of expenditure and such other items as the Section 151 Officer may approve and shall be supported by receipted vouchers and proper VAT receipts where appropriate.
- 10.4 Petty cash must not be used to reimburse personal staff expenses.
- 10.5 Petty cash accounts shall be operated in accordance with instructions issued by the Section 151 officer.
- 11 Credit and Business Cards /Government Procurement Cards
- 11.1 The Section 151 officer shall authorise such credit and business card accounts as they consider appropriate for such Officers of the Council as may need them for the payment of expenses of the Council.
- 11.2 Credit and business cards shall be operated in accordance with instructions issued by the Section 151 officer.
- 12 Income
- 12.1 The arrangements for the collection of all money due to the Council shall be under the control of or approved by the Section 151 officer.
- 12.2 All money received on behalf of the Council shall be paid in without delay in accordance with instructions issued by the Section 151 officer and banked in the Council's name. Procedures for banking must be approved by the Section 151 officer. All receipts, refunds, banking, cash handling and credit card income shall comply with instructions issued by the Section 151 officer.



- 12.3 All receipt forms, tickets and other documents of a similar nature shall be ordered and controlled by the Section 151 officer or under arrangements that they have approved.
- 12.4 Subject to the appropriate powers delegated to them, each Service Lead shall, in conjunction with the Section 151 officer, determine at least annually the charges to be made for services under their control and shall provide the Section 151 officer with a list of all such charges to enable the annual review to be undertaken. Where charges have to be approved by Members, this shall be done at a time that will allow any revised charges to be incorporated within the draft budget for the next financial year.
- 12.5 Each Corporate Head of Service/Head of Programme shall follow instructions issued by the Section 151 Officer regarding the prompt recording and effective recovery of all debts due to the Council.
- 12.6 Each Corporate Head of Service/Head of Programme shall be responsible for ensuring recovery of all debts in respect of services within their control including being alert to the risk of potential bad or doubtful debtors.
- 12.7 Writing off debts due to the Council shall be authorised as follows on the recommendation of the appropriate Service Lead and after consultation with the Section 151 Officer where such debts arise from the operation of the Council's employment policies:
- a. Amounts up to £10,000 in respect of council tax and business rates by the Service Lead: Revenues & Benefits.
  - b. Amounts up to £10,000 in respect of Housing Benefit overpayments and sundry debts by the Service Lead: Revenues & Benefits.
  - c. Amounts up to £10,000 in respect of dwelling and garage rents, housing service and support charges and tenancy related recharges by the Corporate Head of Housing
  - d. Amounts up to £25,000 by the Section 151 officer.
  - e. Amounts in excess of £25,000 and up to £50,000 by the Section 151 Officer in consultation with the Leader or Cabinet Member with responsibility for Finance.
  - f. Amounts in excess of £50,000 and up to £250,000 by the Cabinet.
  - g. Amounts in excess of £250,000 by Full Council.
- 12.8 Each Corporate Head of Service is responsible for ensuring that procedures are in place for the proper recovery of sums due and for the action to be taken before recommending that debt be written off. Such procedures shall comply with instructions issued by the Section 151 Officer.

## 13 Insurances

- 13.1 The Section 151 Officer shall affect all insurance cover, maintain appropriate records and negotiate claims in consultation with other officers where necessary.
- 13.2 Each Service Lead shall co-operate with the Section 151 Officer in maintaining a constant review of insurances and keep them informed of all new risks to be insured or any variations to insurable risks. The Section 151 officer shall provide each Service Lead with an annual statement of all insurances in force as they affect their department for checking and review.
- 13.3 All Officers of the Council shall be included in a fidelity guarantee policy.
- 13.4 Each Service Lead shall notify their Corporate Head of Service/Head of Programme and the Section 151 Officer immediately in writing of any loss, liability or damage or any event that may give rise to a claim on the Council's insurers or its own Insurance Fund.
- 13.5 Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without their express approval.

## 14 Driving Licences and Vehicle Insurances

- 14.1 Each Service Lead is responsible for ensuring that staff within their Team have appropriate driving licences and vehicle insurance for business use and shall comply with instructions approved by the Strategic Director: Resources.

## 15 Security

- 15.1 Each Service Lead is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under their control. They shall consult with their Corporate Head of Service/Head of Programme and the Section 151 officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 15.2 Arrangements shall be made for safe custody of keys to buildings and safes or similar receptacles; the loss of any such keys must be reported to the Section 151 officer and, in the case of keys for buildings the Corporate Head of Asset Management, as soon as the loss is known.
- 15.3 Each Service Lead is responsible for ensuring security arrangements are in accordance with instructions issued by the Section 151 Officer.

## 16 Stores and Inventories

- 16.1 Each Service Lead shall be responsible for the care and custody of stores in their Team and, except for minor items of stationery, shall issue an annual

certificate, in a form approved by the Section 151 Officer, certifying the stores held at 31 March.

- 16.2 Each Service Lead shall ensure that an adequate inventory of the Council's property under their control shall be maintained and kept up to date and recorded in a manner approved by the Section 151 Officer.
- 16.3 Each Service Lead shall keep stores and inventories records, carry out periodic stock and inventory checks and maintain stock levels in accordance with instructions issued by the Section 151 Officer.
- 16.4 Disposal of surplus stores, equipment or other articles shall be carried out in accordance with instructions issued by the Section 151 Officer.

## 17 Land and Buildings

- 17.1 The Corporate Head of Asset Management shall maintain a terrier of all land and buildings in which the Council has a freehold or leasehold interest, denoting powers under which it was originally acquired and the purpose for which it is currently held.
- 17.2 The Service Lead - Legal shall have the custody of all deeds under secure arrangements.
- 17.3 All proposals for the acquisition or disposal of land and buildings or interest therein shall be submitted to the Section 151 Officer for consultation irrespective of whether or not monetary consideration is involved as there may be Accounting, Prudential Code or Tax implications.
- 17.4 All proposals for the acquisition or disposal of land and buildings which cumulatively have a total estimated disposal or purchase value of over £250,000 or are a key decision shall be submitted to Cabinet for a decision.

## 18 Leasing Agreements

- 18.1 Before entering into any leasing agreement, the Section 151 Officer must be consulted in order that the nature of the lease can be determined as to whether it is a finance lease with Prudential Code implications, or an operating lease and so that details can be recorded correctly for inclusion in the statutory Statement of Accounts.

## 19 Purchasing Works, Goods and Services

- 19.1 Except as otherwise approved by the Section 151 Officer, an official order shall be issued for all work, goods and services to be supplied to the Council.
- 19.2 HMRC requirements for work that falls within the Construction Industry Scheme must be complied with before contractors are engaged.

19.3 Purchasing of works, goods and services shall comply with instructions issued by the Section 151 Officer.

## 20 Payment of Accounts

20.1 All payments shall be made by the Section 151 officer or under arrangements approved by them.

20.2 Invoices or other requests for payment shall be certified in accordance with instructions issued by the Section 151 Officer.

20.3 All authorisations to certify invoices etc. shall be approved by the Section 151 officer.

20.4 Payments made to contractors under the Construction Industry Scheme must be verified in accordance with HMRC requirements.

20.5 The Section 151 Officer shall examine, so far as they consider necessary, certified accounts passed to them for payment and shall be entitled to withhold payment of any account until such time as adequate explanations are given as to the validity of the account.

20.6 Each Corporate Head of Service/Head of Programme and Service Lead shall provide, by not later than a date determined by the Section 151 officer, sufficient information to allow them to identify accounts outstanding at 31st March of each year.

## 21 Value Added Tax

21.1 The Section 151 officer shall provide guidance and advice on the administration of VAT.

21.2 Each Corporate Head of Service/Head of Programme is responsible for ensuring that transactions within their responsibility comply with the law relating to VAT and are in accordance with instructions issued by the Section 151 Officer.

21.3 All matters of both principle and practice, including any errors or discrepancies, shall be immediately referred to the Section 151 officer.

21.4 Estimated costs of any proposed capital scheme or significant additional or new revenue expenditure on any service where exempt income is, or may be, involved must be notified to the Section 151 officer as early as possible to ensure that the Council's VAT exemption limit is not breached.

21.5 Contacts with HMRC concerning matters of VAT must be through the Section 151 officer or their appointed representative.

## 22 Salaries and Wages

- 22.1 Appointments of all employees, unless temporary employees approved by Strategic Directors (for which there must be adequate budget provision), shall be made in accordance with the Officer Employment Procedure Rules.
- 22.2 Any change to the establishment in terms of full-time equivalents (FTEs) or costs will not be implemented without approval from Strategic Directors and confirmation to the satisfaction of the Section 151 Officer that there are:
- a. Sufficient resources available to meet any costs involved within the approved budgets under the control of the Strategic Director concerned, and
  - b. That there will be no implications for future financial years that would involve growth in the Council's net expenditure under the relevant or any related budget.
- 22.3 Each Service Lead shall notify the Service Lead - Human Resources and the Human Resources team as soon as possible of all appointments, dismissals, resignations, transfers, changes in the remuneration (including increments), absences, sick leave and unpaid leave of employees, including casual staff, so that proper records are maintained on the HR system and payments made.
- 22.4 The payment of all salaries, wages, compensation or other emoluments to employees including casual staff or former employees shall be made under the control of the Strategic Director: Resources using procedures approved by the Section 151 officer.
- 22.5 All-time records, time sheets or other pay documents shall be certified by the line manager and shall be submitted to the Human Resources section in accordance with instructions approved by the Section 151 Officer.

## 23 Travelling, Subsistence, Other Allowances and Expenses

- 23.1 The payment of travelling, subsistence, other allowances and expenses shall be claimed in accordance with instructions approved by the Section 151 officer and submitted to the Human Resources section. Such claims will be certified by the appropriate Service Lead and their certification will indicate that they are satisfied that the journeys were authorised and necessary, the expenses properly and necessarily incurred, and the allowances are properly payable.
- 23.2 Claims by Members for all allowances due in accordance with the appropriate legislation and Regulations shall be made on a form prescribed by the Section 151 officer and certified by the Member concerned. Claims must be made on a regular basis and submitted to the Democratic Services Team Manager in accordance with the provisions of the [Members' Allowances Scheme](#) and in any case by the end of April in respect of the previous financial year. and in any case by the end of April in respect of the previous financial year.

## Part 4.7 - Contract Procedure Rules

### 1 Introduction

- 1.1 The Contracts Procedure Rules (CPRs) set out the key responsibilities and actions that Council staff must follow when buying or undertaking procurements on behalf of Winchester City Council (the Council).
- 1.2 Under Section 135 of the Local Government Act 1972 the Council must make standing orders with respect to contracts for the supply of goods and services or for the execution of works which provide for:
  - a. Securing competition; and
  - b. Regulating the manner in which tenders are invited.
- 1.3 They support staff to meet legislative requirements, and to meet the Council's ambitions for procurement and related policies and procedures. They support staff to deliver effective procurement.
- 1.4 CPRs are a legal requirement and constitute standing orders for the purpose of s135 of the Local Government Act 1972.
- 1.5 With the exception of procurements in Bands A1 and A2, B1 and B2 (as detailed in Table 1) ("Low Value Transactions"), officers must not engage with a supplier without first engaging with the Procurement Team.
- 1.6 Strategic Directors are responsible for ensuring that their officers comply with these Rules.
- 1.7 The Procurement Team will advise on whether and how the Rules apply in any particular case. Where appropriate, the Procurement Team may seek legal advice from the Council's Legal Team.
- 1.8 A range of procurement templates are also available. Further support and guidance on these CPRs is available from the Service Lead - Corporate Support.
- 1.9 Non-compliance with CPRs, Financial Procedure Rules or UK and European Union legal requirements can have serious consequences for the Council. Following CPRs allows the Council to comply with both procurement and data transparency legislation and Officers should be aware that any non-compliance may result in disciplinary action by the relevant Strategic Director or Statutory Officer.

- 2 Compliance
  - 2.1 Every procurement undertaken by or on behalf of the Council and every contract entered into by the Council will comply with:
  - 2.2 All applicable EU and UK Legislation This is specifically (but not limited to):
    - a. The Local Government Act 1972
    - b. Public Contract Regulations 2015 (PCRs)
    - c. Concession Contracts Regulation 2016 (CCRs)
    - d. Equality Act 2010
    - e. Bribery Act 2010
    - f. Localism Act 2011
    - g. Social Value Act 2012
    - h. Modern Slavery Act 2015
    - i. General Data Protection Regulation (GDPR) 2016
    - j. Freedom of Information Act 2000
    - k. Transparency Code 2015
    - l. TUPE 2006 (Staff Transfers)
    - m. Council Regulations 2015 (State Aid)
    - n. Landlord & Tenants Act 1985, Section 20
    - o. Housing Grants, Construction & Regeneration Act 1996 – (Pay Less Notice)
  - 2.3 These Contracts Procedure Rules, and the [Council's Financial Procedure Rules](#).
  - 2.4 The Council's strategic objectives and policies and the Council's Employee and Members Code of Conduct; and
  - 2.5 The Council's Constitution in particular; Part 2 ([Articles of the Constitution](#)), Part 3 ([Responsibility for Functions](#)), Part 4 ([Rules of Procedures](#)), Part 3.4 ([The Scheme of Delegation to Officers](#)) and Part 5 ([Codes and Protocols](#)).
  - 2.6 Where there is a discrepancy between these CPRs and legislation, the legislation is the dominant authority.
  - 2.7 Central Government Procurement Policy Notes (PPNs) are to be treated as "best practice" – they do not override these rules.

2.8 These Contract Procedure Rules apply to all procurements except those set out below in 2.11 and Exempt Contracts (CPR41).

## 2.9 Safeguarding Obligations

a. Before commencing a procurement process, the following need to be considered.

- (i) Is the interaction in a public or private setting
- (ii) Is the interaction on an individual or group basis
- (iii) Is the target group known to be covered under the classification of 'vulnerable' adults or children.
- (iv) What risks does the contract create for 'vulnerable' individuals
- (v) How can the identified risks be mitigated
- (vi) Is a Safeguarding Policy and process required.

2.10 The term 'procurement' in these CPRs includes any arrangement whereby a new, replacement, amended or extended contract for the supply of goods, works or services is to be put in place. This includes circumstances where more than one provider is invited to tender and also where goods, works or services are procured through a negotiation with a single provider. This includes the award of concessions (a concession contract is the grant by the Council of the right to exploit something that the Council owns or controls. The Council will receive some form of benefit and the person who is granted the concession will exploit the opportunity at their own risk). Grant funding arrangements should be considered carefully to decide whether they are in fact procurement for the purpose of these CPRs. A genuine grant funding arrangement is not procurement. However, officers should consider whether the purpose that the grant is being provided for could be achieved through procurement.

2.11 The following are not procurements for the purposes of these CPRs:

- a. A joint or shared services arrangement with another public body; (provided that the Public Contracts Regulations 2015 do not apply),
- b. An arrangement with a statutory body (e.g. the police) to provide a service that only the statutory body can legally provide; and
- c. A contract or other arrangement with a company that is controlled by the Council (whether wholly or jointly with another public body.)
- d. Employment contracts
- e. Sponsorships
- f. Grants and funding arrangements
- g. Disposal of land



h. Services excluded under PCR2015 Reg 10.

2.12 Where any Agents or Consultants are acting on behalf of the Council in connection with the letting of a contract, the Officer must ensure that the Agent or Consultant agrees in writing to comply with these CPRs.

2.13 Guidance on this matter is available on the national audit office website.  
<http://www.nao.org.uk/successful-commissioning/successful-commissioning-home/sourcing-providers/>

### 3 Requirements for Procurement and Contracts

3.1 The principles underpinning these Procedure Rules are:

- a. The need to ensure that competition and propriety are present in the Council's procurement and the award of contracts.
- b. The need to secure best value from procurement.
- c. The need to maintain fairness, transparency, equality and integrity in the Council's procurement activity; and
- d. The need to comply with applicable legal requirements.

3.2 All procurement by the Council shall comply with the Council's statutory duties in respect of equality (including age, gender, race, and disability) with the objective of eliminating unlawful discrimination and promoting equality of opportunity. At all times during the procurement, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

3.3 All contracts shall be executed in accordance with [Articles 14.3 and 14.4](#) of this Constitution.

### 4 Achieving Best Value

4.1 Every procurement process and contract must be designed to achieve best value for the Council, in accordance with applicable procurement guidance issued by the Service Lead - Corporate Support.

4.2 Before undertaking a new procurement, process or awarding a new contract the Service Lead must establish whether the Council's requirement can be met through any existing contract and ensure that the estimated value can be met from the appropriate budget.

4.3 In relation to all contracts, the Service Lead concerned shall consider matters of quality and reliability as well as price and shall not accept, or recommend acceptance of, the lowest tender or quotation if the Service Lead is not satisfied that it is likely to represent the best value for money.

## 5 Social Value

- 5.1 The Public Services (Social Value) Act 2012 requires contracting authorities to consider at the pre-procurement stage of any service contract and service Framework Agreement (including good and works contracts procured in combination with services) above Public Procurement Thresholds:
- a. How the proposed procurement may improve the economic, social and environmental wellbeing of an area.
  - b. How the contracting authority may act with a view to securing that improvement in conducting the process of procurement; and
  - c. Whether to undertake any community consultation on the above
- 5.2 Appropriate records should be kept of these considerations, including the reason for any decision regarding the matter of community consultation.
- 5.3 The Council has been granted The Living Wage Foundation Accreditation, (this differs from the National Living Wage) and this applies to both our own employees and our suppliers. The Living Wage will form part of our social value criteria and where relevant.
- a. Existing contractors should be encouraged to apply the Living Wage Foundation rates of pay.
  - b. New suppliers should be encouraged to pay the living wage foundation rates of pay and should be required to submit a plan on how they will implement the Living Wage Foundation rates of pay should they be awarded the contracts, when bidding for contracts.
- 5.4 Additional guidance is available from the Procurement Team to ensure compliance to the Council's Procurement and Contract Management Strategy in relation to evaluating social value.

## 6 Interests of Officers in Contracts and Other Matters

- 6.1 All officers engaged in a procurement process shall comply with The Employee Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of a contract. High standards of conduct are obligatory.
- 6.2 In addition to their duty under Section 117 of the Local Government Act 1972 (direct or indirect pecuniary interests in a contract) notice shall be given to the Monitoring Officer, if it comes to the knowledge of any officer of the Council that they have a personal and/ or prejudicial interest in any contract which has been, or is proposed to be, entered into by the Council, or in some other matter which is to be considered by the Council, the Cabinet, any Committee or Sub-Committee, or by a Cabinet Member under the scheme of delegation in the Constitution and which (in either case) is not:

- a. The contract of employment (if any) under which they serve to the Council,  
or
  - b. The tenancy of a dwelling provided by the Council,
- 6.3 They shall as soon as practicable give notice in writing to the Monitoring Officer of the fact that they are interested therein.
- 6.4 For clarity under these Contract Procedure Rules, a personal and prejudicial interest is an interest that, if the officer were a member of the Council and if the contract or other matter were to be considered at a meeting of the Council at which they were present, they would have to disclose under the [Members' Code of Conduct in Part 5](#) of this Constitution prior to providing such advice.in Part 5 of this Constitution prior to providing such advice.
- 6.5 The Monitoring Officer shall keep a record for the purpose of particulars of any notice of pecuniary or personal and prejudicial interest given by an officer of the Council under Section 117 of the Local Government Act 1972 or Paragraph 6.2 of this Rule. The record shall be open for inspection by members of the Council during the ordinary office hours of the Council.
- 6.6 Where an officer submits a report to a meeting on a matter in which they have declared an interest under Section 117 of the Local Government Act 1972 or paragraph 6.2 of these Contract Procedure Rules, then they shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report.
- 6.7 Where any officer advises orally a meeting of the Council, the Cabinet, a Committee or a Sub-Committee, on any contract, grant, proposed contract or other matter and has declared a personal and prejudicial interest in that matter, whether under the requirements of Section 117 of the Local Government Act 1972 or paragraph 6.2 of these Contract Procedure Rules, they shall remind the meeting orally of that interest.
- 7 Joint Procurement / Collaboration
- 7.1 Any joint procurement for the benefit of the Council together with one or more public bodies will be approved by the relevant Strategic Director before the procurement commences.
- 7.2 Where the Council conducts the procurement on behalf of itself and one or more other public bodies these CPRs will apply, and the Service Lead must ensure the other public bodies that are to be included in that arrangement are listed in the Find a Tender Service FTS advertisement and contract documents individually or as an identified class. The estimate of contract usage given must include the potential usage of that joint arrangement by those public bodies listed.

7.3 Where the Council is going to take part in a procurement that is conducted by another public body the procurement must be carried out in accordance with the procuring body's procurement rules and the Public Contracts Regulations, but the Service Lead will in any event comply with the need to demonstrate and secure best value and of the principles of openness, fairness and transparency.

## 8 Assessing the need and estimating the Contract Value / Aggregation

8.1 With the exception of Low Value Transactions, the Service Lead wishing to undertake a procurement must engage with the Procurement Team as soon as a need which may result in a procurement is identified.

8.2 Prior to commencing a procurement, the following options for delivery of the need must be considered:

- a. The consequences of not buying the goods or services or having the works done at all.
- b. The Council making the goods or delivering the services or works in-house.
- c. The Council providing the goods, services or works as part of a partnership arrangement with another party.
- d. The Council commissioning jointly with another contracting authority.
- e. The Council participating in a shared services arrangement with another council or other public sector entities for services delivery.
- f. The Council utilising a pre-existing Council Contract to fulfil the requirement;  
or
- g. The Council achieving delivery through any combination of the above.

8.3 Where the assessment of the need determines that a procurement is required, the appropriate procedure shall be undertaken in accordance with Table 1.

8.4 The contract value is calculated by multiplying the (annual price) by the (contract length + possible contract extensions) whether or not the Public Contracts Regulations 2015 are applicable.

8.5 Contracts whose value cannot be estimated must be treated as being equal to the relevant public procurement threshold, and thus subject to the full regime (Procurement Policy Note 05/23).

8.6 Where the period of a contract is indefinite or cannot be ascertained, it shall be assumed to be for a period of four years for the purpose of these CPRs.

8.7 The Service Lead will ensure that values are not split (dis-aggregated) and therefore remain in compliance with these CPRs and the Public Contracts Regulations 2015.

## 9 Authority to Purchase

- 9.1 The Constitution governs the limits within which the Strategic Directors and their authorised officers may authorise purchases on behalf of the Council and these limits must not be exceeded. The Service Lead - Finance maintains a list of authorisation limits which specifies a maximum financial limit for each transaction for each authorised officer.
- 9.2 Strategic Directors must ensure that procurement activity is undertaken by authorised officers who can demonstrate knowledge and understanding of these Rules and skills appropriate to the task. These officers should already have authority under the above list and if not, must be granted authority by the Section 151 Officer or their deputy.
- 9.3 Officers must ensure that the appropriate budget holder has the funds in place for any proposed contracts and that the necessary budget approval from Finance has been obtained in accordance with Financial Procedure Rules prior to commencement of the procurement process. This must be validated before a decision is made to award a contract.

## 10 Pre-Contract and Budget Approval

- 10.1 Before commencing a procurement process the Service Lead undertaking a procurement must ensure that:
- a. the procurement is properly authorised either: -
    - (i) By Council, Cabinet a Committee or a Cabinet Member, OR
    - (ii) In accordance with the [Scheme of Delegation to Officers](#)
- 10.2 The value of the procurement has been calculated in accordance with these CPRs and that appropriate budgetary provision is available.

## 11 Pre-Market Engagement

- 11.1 Before commencing a procurement process, it may be beneficial to conduct market consultations in order to:
- a. establish the supply market and/or market interest.
  - b. gauge whether the proposed procurement will be affordable.
  - c. determine the most appropriate procurement process.
  - d. assist with the development of documentation; and
  - e. inform potential bidders of the nature of the procurement.
- 11.2 Contact the Procurement Team if pre-market engagement is to be undertaken.

11.3 In the event of a procurement process proceeding following Preliminary Market Engagement, the Bidders who participated should be notified of the opportunity.

## 12 Framework Agreements

12.1 Frameworks are normally used where it would be useful to have a pool of pre-selected bidder to draw from, as the bidder quality assessment procedure has already taken place.

12.2 A Framework Agreement is an agreement with one or more bidders that sets out the terms and conditions under which specific purchases can be made (or 'called off') throughout the term of the agreement.

12.3 Framework Agreements may be established by the Council, or by other public bodies or public sector buying consortia as arrangements through which the Council, along with other public bodies, may make specific purchases.

12.4 The use of a Framework Agreement should be considered prior to commencing any procurement process.

12.5 Advice should be sought from the Service Lead - Corporate Support on whether it is appropriate to use a Framework Agreement and, if so, how it should be accessed or put in place.

12.6 Where a framework is used, The Service Lead - Legal must be consulted on the proposed contractual terms and conditions before they can be accepted.

## 13 Dynamic Purchasing System (DPS)

13.1 A DPS is similar to a Select List or Framework Agreement but is an entirely electronic system that admits all suppliers able to meet the defined selection criteria.

13.2 Additional suppliers can be added throughout the life of the arrangement and the term can be for a period that is proportionate to the nature of the Goods, Services or Works to be procured under it.

13.3 New applicants meeting the requirements must be evaluated and admitted to set timescales at any point during the duration of the DPS. Call-off contracts from a DPS invite all suppliers on the DPS or relevant category of it to submit a tender and must have a Contract Award Notice published in the FTS.

13.4 As with Framework Agreements, there are a number of established central purchasing bodies who DPS which the Council can utilise.

13.5 The use of a Dynamic Purchasing System may be appropriate where:

- a. Quotations or Tenders are regularly obtained for the same or similar types of Goods, Services or Works; and

b. It is not practical or appropriate that the Goods, Services or Works in question be aggregated into a single requirement and/or competed under one procurement.

13.6 Advice on setting up or using an established DPS should be sought from the Service Lead - Corporate Support and the Service Lead - Legal.

14 Procurement Thresholds

14.1 The procedure to be adopted in relation to contracts shall be in accordance with the following table:

TABLE 1

	Estimated Total Value of Contract	Procedure / Tender Requirement
A1	£10,000 or less	Obtain single verbal or written quotation, or use suitable framework agreement or DPS in accordance with the framework/DPS terms and CPR 11 or 12
A2	£25,000 or less Works contracts ONLY  Under £25,000 concession and light touch contracts ONLY are exempt  Values are ex VAT.	The Service Lead concerned may agree contractual terms with any person that they consider competent for the relevant purpose, subject to achieving Best Value and Social Value.  For concession and light touch contracts contact the Procurement team
B1	Over £10,000 but not more than £100,000 Supplies and Services contracts ONLY	The Service Lead concerned shall:  determine the evaluation criteria and model (based on either price or most economically advantageous tender) and obtain any necessary approval prior to inviting quotations in accordance with CPR29;
B2	Over £25,000 but not more than £250,000	

	Estimated Total Value of Contract	Procedure / Tender Requirement
	<p>Works contracts ONLY</p> <p>Under £250,000 concession and light touch contracts ONLY are exempt</p> <p>Values are ex VAT.</p>	<p>invite a minimum of three written quotations either</p> <p>accept the quotation which scores highest by applying the evaluation model.</p> <p>Or use suitable framework agreement or DPS in accordance with the framework/DPS terms and CPR 11 or 12.</p> <p>For Concession and light touch contracts contact the Procurement team</p>
C1	<p>Over £100,000</p> <p>Supplies and Service contracts (but outside scope of Public Contracts Regulations 2015)</p>	<p>No contract may be entered into unless formal competitive tenders have been invited either:</p> <p>C1 by Public Invitation to Tender (Open Tender) in accordance with CPR 16 and 29 or</p>
C2	<p>Over £250,000 Works contracts ONLY</p>	<p>C2 by Public Invitation to Tender (Open or Restricted) in accordance with CPR 16 and/or 18 and 29</p> <p>Use of a suitable framework agreement or DPS in accordance with the framework terms and CPR 11 or 12</p>
C3	<p>Over £250,000 concession and light touch contracts ONLY</p>	<p>For Light Touch Contracts use of a suitable framework agreement or DPS in accordance with the framework terms and CPR 11 or 12</p> <p>For competitive restricted tender process, not publicly advertised, Approval to</p>



	Estimated Total Value of Contract	Procedure / Tender Requirement
	Values are ex VAT.	proceed must be obtained from the Service Lead - Corporate Support
D	<p>Over the UK Public Procurement Thresholds</p> <p>UK Public Procurement Thresholds effective from 1 January 2022 are calculated incl VAT:</p> <p>Works Contracts: £5,336,937 (Based on 20% VAT this figure is £4,447,448 ex VAT)</p> <p>Supplies Contracts:- £213,477 (Based on 20% VAT this figure is £177,898 ex VAT)</p> <p>Services Contracts: £213,477 (Based on 20% VAT this figure is £177,898 ex VAT)</p> <p>Light Touch Contracts: £663,540 (Based on 20% VAT this figure is £ £552,950 ex VAT)</p>	<p>Where the value exceeds the UK Public Procurement Thresholds, the procurement must be undertaken in accordance with one of the following procedures as defined by the Public Contract Regulations 2015:</p> <p>Open</p> <p>Restricted</p> <p>Competitive with Negotiation</p> <p>Competitive Dialogue</p> <p>Innovation Partnership</p> <p>Negotiated procedure without prior publication.</p> <p>The Service Lead may select the Open or Restricted Procedure without Member approval and shall determine the evaluation criteria and model (based on either price <i>or</i> most economically advantageous tender) and obtain any necessary approval prior to inviting tenders in accordance with CPR29.</p> <p>In all other cases (except for Light Touch Regime) the choice of Procedure must be approved prior to inviting tenders either by Cabinet or by the relevant Cabinet Member under the scheme of delegation in the Constitution.</p> <p>Use of a suitable framework agreement or DPS is permitted in accordance with the framework or DPS terms and CPR 11 or 12.</p>

## 15 Procurement and Contract Risk Assessment

15.1 Before the commencement of procurement activity for any category other than A1 and A2, a risk assessment should be completed. The approach to the procurement and subsequent contract management arrangements will be proportionate to the risk of the contract. Further guidance is available from the Service Lead – Corporate Support.

## 16 Contracts up to £100,000 / £250,000 - (Band A1 and A2 and Band B1 and B2)

16.1 For contracts of a value of £10,000 or less (Band A1 - Supplies and Services) and £25,000 or less (Band A2 - Works only) at least one written quotation should be sought.

16.2 For Band B1 Supplies and Services contracts valued above £10,000 – £100,000 and Band B2 Works contracts valued above £25,000 - £250,000 where there are a sufficient number of providers, at least three written quotations should be sought and a detailed brief / specification should be issued, along with the evaluation criteria.

16.3 A Framework Agreement or DPS may also be used as an alternative to inviting quotations. See CPR 11 and 12. Concession and Light Touch contracts valued up to £250,000; contact the Procurement Team.

16.4 Where quotations are sought, the Procuring Officer must always consider whether the procurement would be of interest to local suppliers and/or third sector organisations and, if it would, at least one of the organisations invited to quotation should be local suppliers and/or third sector organisations.

16.5 Quotations should be invited via an e-procurement system where it is available, or by e-mail (unless it is a requirement of a Third-Party Agreement that another means be used i.e. an alternative e-procurement system.) Where e-mail is used to issue and receive quotations, it is recommended that local processes are put in place to ensure the integrity of a fair, open and transparent process.

16.6 Where relevant, a third-party pre-qualification system such as Construction Line may be used to invite a minimum of three quotations in accordance with the relevant terms. Use of a pre-qualification system should be reviewed by the Service Lead - Corporate Support and Service Lead - Legal to ensure that it is a legally viable option and allows the Council to demonstrate suppliers' suitability.

16.7 For the avoidance of doubt the return of a single bid does not require the Authorised Officer to seek a waiver of this CPR but consideration should be given to why only a single bid has been received and the requirements of the specification reviewed to establish if viable changes would encourage more competition.

- 16.8 Officers must provide the Procurement Team with any and all requested information relating to the contracts and suppliers to facilitate completion of the Contract Register and to enable the Council to meet its obligations in respect of the Local Government Transparency Code 2015.
- 17 Contracts Over £100,000 / £250,000 – (Band C1 and C2)
- 17.1 The Service Lead - Corporate Support must be notified of the commencement of all new Band C and procurements.
- 17.2 For Band C1 Supplies and Services contracts valued above £100,000 but below Public Procurement thresholds (See CPR 13), an 'open' tender procedure must be followed or a suitable framework agreement or DPS utilised (See CPR 11 and 12).
- 17.3 For Band C2 'Works' contracts valued above £250,000 but below Public Procurement thresholds (See CPR 13), an 'open' or 'restricted' tender procedure may be followed or a suitable framework agreement or DPS utilised (See CPR 11 and 12).
- 17.4 For Band C3 'concession' or Light Touch' contracts valued above £250,000 but below Public Procurement thresholds (CPR 13) an 'open' or restricted tender procedure by public invitation may be followed. A suitable framework agreement or DPS can be utilised for Light Touch contracts, See CPR11 and 12), or a competitive restricted tender process, not publicly advertised, can be followed. Approval shall be obtained from the Service Lead - Corporate Support.
- 18 Open Tender Procedure
- 18.1 Under the 'open' tender procedure, any bidder can respond to an advert and submit a tender. However, it is permitted to include 'suitability' questions in the tender documents. Where relevant, Constructionline can be used as a pre-qualification system to assess and evidence a bidders suitability. However, this cannot be mandated, and suitability questions should be completed and submitted by bidders that are not Constructionline members.
- 18.2 Use of pre-qualification systems should be reviewed periodically by the Service Lead - Corporate Support to ensure that their use continues to be used in a way that promotes the principles of openness, fairness and transparency.

18.3 A Contract Notice (advert) must be placed on Find a Tender Service (FTS), Contracts Finder<sup>2</sup> (and any other electronic advertising portal as determined by the Service Lead - Corporate Support).

18.4 The Contract Notice shall:

- a. Express the nature and purpose of the contract.
- b. Invite tenders for its execution.
- c. State where tender documents may be obtained.
- d. State either the last date and time when tenders will be received or the Last date when applications for tender documents will be accepted.
- e. State the full evaluation criteria and scoring model.

18.5 All Invitations to Tender must include instructions to tenderers stating that the Council reserve the right to accept a tender other than the lowest, or to accept no tender at all. The process for receiving tenders shall be either a paper process or an electronic process (See CPR 28).

19 Above UK Public Procurement Thresholds – (Band D)

19.1 The Service Lead - Corporate Support must be notified of the commencement of all new Band D and procurements.

19.2 Where a procurement process is being carried out for an UK Public Procurement Procedure contract the procedures set out in the Public Contracts Regulations 2015 (PCR2015) as well as these CPRs must be followed.

19.3 For tenders above the UK Public Procurement Threshold, the following procedures are available:

- a. Open
- b. Restricted
- c. Competitive Dialogue
- d. Competitive with Negotiation
- e. Innovation Partnership

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<sup>2</sup> The Governments Contracts Finder website can be found here - <https://www.gov.uk/contracts-finder>

f. Negotiated procedure without prior publication.

19.4 Use of the Competitive Dialogue and Competitive Negotiation procedures should only be used where certain criteria (as prescribed by the PCR2015) are met, including where the contract requirement is complex or cannot be purchased 'off the shelf'.

19.5 Before adopting any of the above procedures, guidance must be obtained from the Service Lead - Corporate Support and the Service Lead - Legal.

## 20 Restricted procedure

20.1 Under the 'restricted' procedure a number of bidders are selected from those who express an interest in response to a FTS Contract Notice. It is similar to the open procedure, except that:

a. The Contract Notice shall state that a restricted tendering procedure will be used.

b. The notice/contract should specify that information is to be provided by interested parties for the short-listing process, either by specifying the information required in the public notice/advert or by their completion and return of a standard selection questionnaire (SQ). A draft ITT must also be published at this stage which includes the specification, evaluation award criteria and contract.

c. At the end of the period specified in the public notice, an invitation to tender shall be issued to tenderers selected by means of predetermined and objective selection criteria.

20.2 Guidance should be sought from the Service Lead - Corporate Support on this process.

## 21 Competitive with Negotiation Procedure

21.1 Under this procedure a selection is made from those bidders who respond to a FTS Contract Notice and only they are invited to submit an initial tender for the contract requirement. The Council may then open negotiations with the tenderers in order to seek improved offers.

## 22 Competitive Dialogue Procedure

22.1 Under this procedure a selection is made from those bidders who respond to a FTS Contract Notice and the Council enters into dialogue with potential bidders, to develop one or more suitable solutions for its contract requirements and on which chosen bidders are then invited to tender.

## 23 Innovation Partnership Procedure

23.1 Under this procedure a selection is made from those bidders who respond to a FTS Contract Notice. The Council may then use a negotiated approach to invite bidders to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on available from the market. The Council would be allowed to award partnerships to more than one 'partner'.

## 24 Negotiated procedure without prior publication.

24.1 In the specific cases and circumstances laid down in PCR2015, this procedure may be used to award public contracts by a negotiated procedure without prior publication. Guidance must be sought from the Service Lead - Corporate Support on this process.

## 25 Reserved Contracts for Mutuals

25.1 The UK Procurement Directives permit competition for certain contracts, mainly in the social and health sectors, to be 'reserved' to such organisations as mutual and social enterprises meeting certain limited criteria. The 'Light Touch' procedure would be used, and tenders would only be allowed from organisations meeting the mutual and social enterprise criteria. Any contract awarded under this procedure would be limited to a term of 3 years and could not be limited to a term of 3 years and could not be awarded to an organization who had been awarded a previous contract for the services concerned by the Council within the previous 3 years.

25.2 Use of this procedure would require the prior approval of the relevant Cabinet Member and/or Cabinet.

## 26 Light Touch Contracts

26.1 There are specific rules in PCR2015 covering contracts for social and other specific services, that include certain health, social, educational and other services.

26.2 Above the threshold set out in CPR 13 D, these services must be procured following the placement of a FTS Contract Notice and using a selection process that follows the principles of transparency and equal treatment and in particular covers the following:

- a. Conditions for participation must be clear.
- b. Time limits must be clear; and
- c. The award procedure must be clear.

26.3 Advice shall be sought from the Service Lead - Corporate Support to ascertain whether the service you are procuring needs to be advertised in accordance with PCR2015 and how the procurement for these services should be run.

26.4 Below the threshold set out in CPR 13 D these services must be procured following the advice of the Procurement team.

26.5 Officers conducting above threshold procurement of goods, works and services should note that they must consider dividing contracts in to lots and justify any decision not to do so in either the procurement documents or an evaluation report and that all procurement documents must be published at the time that the FTS Contract Notice is published in accordance with PCR2015.

## 27 Contract Notice

27.1 The requirement for advertising opportunities is summarised in the table below:

Total Contract Value	Contracts Finder	FTS
< £100,000 (B1) / < £250,000 (B2)	Optional	Optional
> £100,000 (C1) / > £250,000 (C2)	Mandatory	Optional
Above UK Public Procurement Threshold	Mandatory	Mandatory

27.2 Where an advert is used it should always be placed on Contracts Finder. Other media may be considered as appropriate.

27.3 Failure to publish on Contracts Finder will lead to the Council being in breach of data transparency legislation.

## 28 Bidder Suitability

28.1 In all UK Public procurements, the Council will only enter into a contract with a Contractor if it is satisfied as to the Contractor's eligibility, financial standing and technical capacity. The initial suitability of Bidders shall be assessed by way of self-declarations of preliminary evidence in accordance with PCR2015.

28.2 A standard Selection Questionnaire (SQ) is used to assess a tenderer's ability to perform the contract in question (selection criteria) and must not be used to

assess how a contractor will perform the contract (award criteria). A Selection Questionnaire can only be used for contracts valued above the UK threshold for goods and services.

- 28.3 A bidder who is considered for contract award will be required to provide certificates and supporting documents at this stage.
- 28.4 In all below UK Public Procurement threshold exercises, Officers need to undertake a risk assessment (CPR14) to determine whether it is necessary and proportionate to assess a supplier's eligibility, financial standing and technical capacity. If it is decided that this assessment is appropriate an SQ is not allowed at this level of spend except for Works contracts in excess of the Goods and Services Threshold. Instead, suitability questions must be included as part of the tender assessment. Further guidance should be sought from the Service Lead - Corporate Support.

## 29 Invitation to Tender (ITT)

- 29.1 Bidders should ordinarily be allowed not less than four weeks for the return of tenders. This can be amended accordingly to reflect the complexity of the procurement or where the period is set by agreement with the bidders. Above UK Public Procurement Threshold procurements are subject to statutory timescales. Further guidance can be sought from the Service Lead - Corporate Support.
- 29.2 Where using a Framework Agreement, this may provide for carrying out a mini-tender exercise. In such cases, the rules of the Framework Agreement will govern the process where there is any conflict with these CPRs.
- 29.3 The Officer will ensure that tenders are invited, and Contracts are entered into on the Council's terms and conditions. These must be included with each purchase order or ITT. Where this is not possible, because the Council's terms and conditions are not suitable or a Third-Party Framework Agreement is being used, and other terms and conditions are proposed, those terms and conditions must be approved by the Service Lead - Legal before they can be accepted.

## 30 Pre-tender submission clarification

- 30.1 Prior to the tender submission deadline either the Council or a tenderer may seek to clarify any aspects of the issued tender documentation. Adequate time must be allowed for both the clarification question and the response.
- 30.2 Both the clarification question and response must be in writing and recorded in a log. A minimum of 6 calendar days must be allowed between the last clarifications question or response issued by the Council and the tender submission date (although note that different timescales apply to procurements that are subject to the PCR2015 and have required the publication of a Contract Notice). Except for a very limited set of circumstances both the



question (anonymised) and the response should be issued to everyone who has been invited to tender.

### 31 Submission, Receipt, Opening and Recoding of Tenders

31.1 The use of e-procurement is encouraged for all procurements for an efficient and transparent process but is not mandatory for non-UK Public Procurement threshold tenders.

31.2 Electronic signatures on e-tenders are acceptable.

31.3 Invitations to tender for procurements that have a value above £100,000 (C1) / £250,000 (C2) or more should be transmitted electronically using an e-procurement system as determined by the Service Lead - Corporate Support. This includes mini competitions under Third Party Framework Agreements.)

31.4 Invitations to tender for procurements that have a value in excess of Public procurement thresholds must be transmitted electronically using an e-procurement system as determined by the Service Lead - Corporate Support. This includes mini competitions under Third Party Framework Agreements.)

31.5 E-mailed Tender Documents or tender submissions are not acceptable for procurements that have a value above £100,000 (C1) / £250,000 (C2) or more.

31.6 In the event of a fault or failure with the e-tendering procurement system, paper tenders may be received in accordance with guidelines given by the Service Lead - Corporate Support. If appropriate, the time and date for receipt of tenders may be extended to allow sufficient time for paper tenders to be received.

31.7 Officers who have been involved in preparing Tender Documents for procurements that have a value above £100,000 (B1) or £250,00 (B2 and C3) must not be involved in the recording or opening of the Tender Documents.

31.8 Tender submissions for procurements that have a value above £100,000 (B1) or £250,000 (B2 and C3) shall be opened by two independent officers of the Council as nominated by the Service Lead – Legal. An immediate record will be made of the Tender submissions received including names, addresses, value and the date, time of opening and reference number (where e-tendering is used). The record of the tender opening shall be signed by all persons present.

### 32 Hard Copy Tendering

32.1 Where hard copy tenders are being accepted (below UK Public procurement threshold only and in exceptional circumstances) they must be addressed to The Service Lead - Legal and sent in a plain envelope with no identifiable markings, clearly labelled as a Tender and as private and confidential.

32.2 Paper tenders shall remain in the secure custody of the Service Lead - Legal, and electronic tenders will not be accessible, until the time appointed for their opening. The Service Lead legal may delegate authority for the opening of the tender submission if they are not able to be present.

32.3 Where a tender is accidentally opened prior to the formal tender opening, the person opening the tender shall make a full report and submit such report, the tender (and the envelope in the case of paper tenders) to the Service Lead - Legal. The tender shall then be retained by the Service Lead - Legal until the formal tender opening, when it shall be processed as set out above, and a note of the accidental opening added to the tender record.

### 33 Tender Evaluation (Applies to all Band A, B C and D contracts)

33.1 The Service Lead shall select an evaluation model based on: -

- a. Lowest price (or highest bid in contracts where payment is to be made to the Council) alone; or
- b. Most Economically Advantageous Tender (MEAT) - a combination of price and up to and including 40% for quality, technical capability and other similar criteria.

33.2 In-line with the council's Procurement and Contract Management Strategy, where the MEAT evaluation model is used, a minimum of 10% must be allocated to environmental and social value, unless an alternative evaluation model is approved by the responsible Cabinet Member or Cabinet.

33.3 In all other cases, the evaluation model must be approved prior to inviting quotations or tenders either by the Section 151 Officer for procurements with a total value of up to £100k for goods and services and £250k for works: or if above these values by Cabinet, Committee or the relevant Cabinet Member under the scheme of delegation in the Constitution;

33.4 Selection and award criteria must be distinguished and fully disclosed, along with weightings, as part of the tender documentation. The evaluation criteria will be predetermined and approved as required. Published criteria may not be changed and will apply throughout all stages of procurement. The evaluation criteria and methodology must be set in accordance with the PCR 2015 (including an assessment of cost effectiveness such as lifecycle costing).

33.5 For contracts which are to be evaluated using the "MEAT" criteria, the evaluation is to be carried out by a minimum of two appropriate officers nominated by the relevant Service Lead. A moderation meeting will be held to agree the scores in each area and the evaluation comments. An evaluation report should be produced post the moderation meeting and should provide a full audit trail of the decision reached. For procurements that have a value in excess of UK Public Procurement thresholds, a member of the Procurement Team must lead the moderation.

33.6 Elected Members shall not participate in the tender evaluation procedure but may in appropriate cases be invited to attend any presentations given by tenderers and to review submission documents related to those presentations. Any such Elected Member participation shall be on the basis that Elected Members shall treat all information as commercially sensitive and confidential.

33.7 All contracts must be awarded on the basis of the offer which represents Best Value to the Council.

#### 34 Errors in Tender Submissions

34.1 Where a tenderer has made a genuine error, they may be given an opportunity to correct that error prior to tender evaluation. If correction is permitted the tenderer must submit, supplement, clarify or complete the relevant information or documentation within a strict time limit that represents the minimum time that a tenderer needs to make the correction.

34.2 If a tender submission is incomplete or has specific documents missing and correction is permitted the tenderer must submit, supplement, clarify or complete the relevant information or documentation within a strict time limit that represents the minimum time that a tenderer needs to make the correction.

34.3 Other errors in tender submissions must be dealt with either by asking the tenderer to confirm that they will honour their tender submission despite the error or if not withdraw the tender from the procurement process.

34.4 If a tenderer uploads documents onto an e-procurement system which cannot subsequently be opened by the Council at the tender opening ceremony, the Authorised Officer should ask the tenderer to re-submit its documents to them in a format that can be accessed by the Council.

34.5 Tender Documents must state how errors in tenders will be dealt with. Whichever process is followed it must be transparent and fair to all tenderers.

34.6 If a Contractor agrees to stand by an error which will cast doubt on its ability to perform the contract, or to the standard required, or may result in legal dispute, consideration should be given to dealing with this as an abnormally low tender.

#### 35 Post Tender Clarification and Negotiation

35.1 Post tender submission, the Council may ask tenderers to clarify any aspects of the submitted tender but only if it is genuinely unclear. If the submission is clear and incorrect this is not clarification. If any amended or new documentation is submitted as part of a clarification response it must only clarify the original response and not contain any new information. Anything that is submitted and goes above and beyond clarification must be disregarded in the evaluation and a note made to that effect. All clarifications and responses must be in writing and recorded in a log.

- 35.2 There are specific rules in PCR2015 dealing with the negotiated procedure without publication of a notice, the competitive procedure with negotiation, the competitive dialogue procedure, the innovation partnership procedure and the procurement of Social and Other Specific Services (as defined in PCR 2015).
- 35.3 Officers are expected to take advice from the Service Lead - Corporate Support and the Service Lead - Legal when using these procedures. The Council may clarify, specify and fine tune final tenders and submissions that are received through the competitive dialogue procedure and (for this procedure only) can enter into negotiations with the best value tenderer to confirm financial commitments or other terms contained in the tender by finalising the terms of the contract, provided this does not have the effect of materially modifying essential aspects of the tender and does not distort competition or cause discrimination.

## 36 Awarding Contracts

- 36.1 A contract will only be awarded subject to the tender evaluation criteria.
- 36.2 The results of the tender evaluation process must be recorded.
- 36.3 A contract may only be awarded and signed by an officer Authorised to do so under the scheme of delegation in the Constitution, or by the Service Lead - Legal subject to them having produced and/or approved a suitable set of contract conditions.
- 36.4 Contracts procured under a UK Public Procurement Procedure must be awarded in accordance with the procedure set out in PCR2015. Guidance on this can be obtained from the Service Lead - Corporate Support or the Service Lead - Legal.
- 36.5 Once a contract has been awarded the procuring Officer must update the Corporate Contract Register and Contracts Finder with:
- a. Contract Title.
  - b. Supplier Name.
  - c. Description of Services
  - d. Contract term including details of any provisions for extension.
  - e. Contract Start Date.
  - f. Total contract value.
  - g. Whether the successful contractor is local and/or a small and medium enterprise (SME) and/or a voluntary, community, social enterprise (VCSE) organization and;

h. Name of Contract Manager.

36.6 If an existing Framework Agreement is utilised the published information include:

a. Framework title and Reference Number (if applicable).

b. Lead buying organisations name.

36.7 Following completion of the tender evaluation process, all tenderers must be notified in writing of the results in accordance with PCR 2015 and the principles of openness, fairness and transparency.

36.8 For all contracts awarded via a UK Public Procurement procedure, a Regulation 84 should be produced and held on file for Audit purposes. Further guidance on Regulation 84 reports can be sought from the Service Lead – Corporate Support.

36.9 Where the winning Contractor has identified itself as being within the scope of IR35 Legislation via the tender process, the Officer must check the Contractors employment status for tax on the HMRC website to determine whether the Contractor should be paid via the Council's payroll system or via the raising of an invoice on the Financial Management System. Advice must be sought from the Finance Manager if there is any doubt about the application of this.

37 Documentation, Liquidated Damages, Insurance, and Bonds

38 Documentation

38.1 Every contract under the value of £10,000 made verbally or otherwise will be recorded by the raising of a purchase order that is subject to authorisation by the relevant officer. All expenditure over £500 will be published on the Council's website. <https://www.winchester.gov.uk/transparency-and-open-data/expenditure-over-163-500>

38.2 Every contract or order exceeding £10,000 in value or amount shall be in writing, and shall specify

a. The work, services, materials, matters or things to be furnished had or done including the required standard and/or the relevant specification.

b. The price to be paid with a statement of discounts or other deductions; and

c. (Where appropriate) the time or times within which the contract is to be performed and whether the time or times so specified is or are to be of the essence of the contract.

38.3 The Service Lead - Legal shall be informed of every proposed contract which exceeds £10,000 in value or amount and if they so determine a formal contract

shall be prepared or approved by them. All contracts shall be executed in accordance with [Articles](#) 14.3 and 14.4 of this Constitution.

#### 39 Liquidated Damages

39.1 Every contract for the execution of works which exceeds £100,000 in value or amount shall, unless otherwise agreed by the SECTION 151 Officer, provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed. The value or formula for calculating liquidated damages shall be specified in the contract.

#### 40 Insurance

40.1 Every contract for the provision of goods and services or execution of works shall require the appointed contractor to provide policies of insurance for the relevant sum specified in the Council's Contract Insurance Guide.

40.2 Unless otherwise agreed by the Section 151 Officer, every contract for the execution of works exceeding £100,000 in value or amount shall require the contractor to produce satisfactory insurance policies in respect of employers liability, third party and fire risks in a sum of not less than £5,000,000 (or such other sum as may be specified in the Council's adopted Insurance Guide) in respect of any one accident.

40.3 Insurance policies shall be maintained by or on behalf of the contractor during the term of the contract. The SECTION 151 Officer shall be consulted, and a risk assessment carried out before an insurance level is agreed which is outside the Council's Contract Insurance Guide.

#### 41 Bonds<sup>3</sup>

41.1 For contracts estimated to be greater than £1,000,000 and/or deemed by the Section 151 Officer to be 'high risk' the contractor shall be required to provide a bond for ten per cent (10%) of the contract sum. In the case of term contracts, the bond value will be based on the total value of the contract but reduced pro-rata on each anniversary date of the contract term. To amend or waive this requirement, the Service Lead should seek authority from the Section 151 Officer.

41.2 For contracts estimated to be greater than £500,000 and/or deemed to be 'medium risk' consideration should be given to requiring a bond a written

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<sup>3</sup> Procurement Policy Notes PPN 02/13 Supplier Financial Risk Issues - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/137569/PPN\\_Supplier\\_financial\\_risk\\_Feb-18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/137569/PPN_Supplier_financial_risk_Feb-18.pdf)

decision is to be made by the Service Lead in consultation with Section 151 officer or Service Lead – Finance.

- 41.3 The purpose of the bond is to provide financial surety against which the Council may claim for financial loss incurred because of default action or non-action by the contractor. The bond shall cover the period of the contract up to the issue of the certificate of practical completion or end of the contract term, as appropriate.
- 41.4 A bond shall only be acceptable from a Bank, or an approved Insurance Company authorised and regulated by the Financial Services Authority (FSA) (or equivalent for non-UK companies), as determined by the SECTION 151 Officer.
- 41.5 Where a bond is required, the contract shall not commence until the Service Lead - Legal or Finance Manager is assured by the relevant officer that the bond is in force.
- 41.6 For all other 'medium risk' contracts consideration should be given to requiring a parent company guarantee and a written record made of the decision by the Service Lead.
- 41.7 In addition, where a bidder's financial stability is not satisfactorily evidenced by a financial appraisal (either by using a credit rating report or submitted company accounts); a parent company guarantee may be sought. The purpose of a parent company guarantee is to secure continuity of the contract and/or indemnify the Council against any losses.
- 41.8 Where a parental company guarantee is required, the contract shall not commence until the Service Lead - Legal or Finance Manager is assured by the relevant officer that the parental company guarantee is in force.

## 42 Prevention of Corruption

- 42.1 In every formal contract a clause shall be inserted to secure that the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the contractor) or, if in relation to any contract with the Council the contractor or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010, or shall have given any fee or reward the receipt of which

is an offence under the provisions of Section 117 of the Local Government Act 1972.

#### 43 Partnering Arrangements

43.1 No Partnership or Joint Venture Arrangement shall be entered into by the Council except with the approval of Cabinet or the relevant Cabinet Member except:

- a. Where there is no on-going commitment by the Council and the payment by the partner(s) to the Council does not exceed £25,000 or
- b. Any payment by the Council does not exceed £25,000 and is provided for in existing budgets and
- c. The Section 151 Officer has been consulted.

#### 44 Contracts Register

44.1 A contracts register shall be maintained by the Section 151 Officer, containing details of:

- a. Any contract that is for a finite period, that will need to be reviewed at the end of that period, regardless of value;
- b. Any other contract that is above the value of £5,000.

44.2 The Service Lead who is responsible for a procurement shall ensure that details of contracts are entered onto the Contracts Registers and Contracts Finder within 30 days of the contract being entered into.

44.3 The contracts register will also be published quarterly on the Council's website as part of the Government's transparency agenda.

#### 45 Contract Management

45.1 The Service Lead must ensure that all contracts are monitored and managed throughout the contract period, and that the performance of contractors is reviewed regularly against the terms of the contract and any performance monitoring schedules including sustainability.

45.2 For each medium and high-risk contract, the Service Lead must designate an appropriate lead officer as primary contact and Contract Manager. Contracts must be managed in accordance with the requirements of the Council's Contract Management Framework and any guidance issued by the Service Lead - Corporate Support.

45.3 In particular, the Service Lead shall ensure that where the contractor has been required to submit Health and Safety Policies in accordance with these Contracts Procedure Rules, the contract monitoring process includes on-going



monitoring of the implementation and effectiveness of such Health and Safety Policies.

45.4 Records of review meetings or site meetings (as applicable) shall be kept on the contract file.

45.5 Where contracts include retention of monies provision the Service Lead shall ensure that release of such monies is managed in accordance with the contract terms.

45.6 The Service Lead shall monitor contract expenditure and report on any contractual overspend in accordance with the relevant provisions of the Financial Procedure Rules..

45.7 The Service Lead must ensure that contracts are reviewed within adequate timescales to agree and implement any action required i.e., re-tender, implement exit management plan etc.

## 46 Contract Extensions and Variations

### 46.1 Extensions

- a. Contract extensions are only permitted if they are put in place before the contract expiry date. Prior to seeking approval from the relevant Strategic Director or Statutory Officer to take up a contract extension the Service Lead must comply with the requirements to establish whether the extension will deliver Best Value. This process must be recorded in writing.
- b. Any Contract extension must be approved by and dealt with by the relevant Strategic Director or Statutory Officer. The Section 151 Officer must be consulted if the extension relates to a high-risk contract. The decision to extend a contract will be treated as a new decision that is not a consequence of the initial decision to procure. It may be an Administrative or Significant Operational or Key decision, depending on value and impact of the decision and the decision must be published in accordance with Part 2 Article 13 Decision Making.
- c. All extensions to any Council contracts must be in writing and the Corporate Contracts Register and Contracts Finder updated accordingly. Extensions of a Contract that are categorised as “variations” in the Contract terms and conditions will be governed by rules 36.5 to 36.9 and CPR 35.1 and 35.2 will not apply.
- d. Once a Contract has expired it cannot then be extended.

### 46.2 Variations / Modifications

- a. Variations to contracts will be dealt with in accordance with these Contracts Procedure Rules and the Council’s Financial Regulations.

- b. All Contract variations/modifications must be carried out in accordance with PCR2015 (Reg 72) and within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed.
- c. All Contract variations must be in writing and signed by both the Council and the provider except where different provisions are made within the Contract documentation. The value of each variation must be assessed by the Service Lead and a Delegated Decision taken by the relevant Strategic Director or Statutory Officer. The Section 151 Officer **must** be consulted if:
  - (i) The variation relates to a high-risk contract and involves a change to the terms and conditions of the contract (rather than the scope or price); and
  - (ii) If there is any possibility that CPR 36.9 might apply.

Where appropriate, (taking into account any change in contract value, contract term, range of services provided etc.), contract variations must be reported to the Service Lead - Corporate Support in order that Corporate Contracts Register and Contracts Finder can be updated.

46.3 A new procurement is required in case of material change where one or more of the following conditions are met:

46.4 The variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of other tenderers than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure.

46.5 The variation increases the value of the contract or the framework agreement substantially in favour of the provider in a manner which was not provided for in the initial contract or framework agreement.

46.6 The modification extends the scope of the contract or framework agreement considerably.

46.7 You must consult the Service Lead - Legal if you are considering varying a Contract that you have procured under CPR 17.

47 Transfer of contracts – novation and assignment

47.1 Transfer, assignment and novation of contracts can only be carried out by the Service Lead - Legal.

48 Termination of Contract

48.1 Any Contract will only be terminated early if this action is authorised by the relevant Strategic Director or Statutory Officer through a Delegated Decision. A copy of the report and decision for termination of any contract exceeding

£100,000 in value must be sent to the Section 151 Officer for monitoring purposes. All termination letters under this rule will be drafted and issued via The Service Lead - Legal in conjunction with the Service Lead.

48.2 A contract must not be terminated to avoid international obligations.

#### 49 Nominated and Named Sub-Contractors

49.1 If a sub-contractor or sub-consultant is to be nominated or named to a main Contractor, they must have been procured in accordance with these Contracts Procedure Rules and the terms of the tender and appointment must be compatible with the main contract.

49.2 It shall be a condition of the employment by the Council of any person (not being an officer of the Council) to supervise a contract that in relation to such contract, they shall comply with the requirements of Contracts Procedure Rules as if they were an officer of the Council.

#### 50 Exceptions to Contracts Procedure Rules

50.1 Every contract shall comply with these CPRs and no exception from any of the following provisions of these CPRs shall be made except in exceptional circumstances where it can be demonstrated that:

- a. There is an urgent requirement to secure the provision of works, services or supplies and it is not practical to seek competitive quotations or tenders.
- b. By applying the Procedure Rules, it would not be possible to obtain genuine competition.
- c. The works, services or supplies required are of a specialist nature, such that competitive prices cannot be obtained.
- d. Professional services, such as Counsel, are required urgently.
- e. By extending the term (either by exercising an option within the contract or otherwise) or varying and/or extending the scope an existing contract, it is in the best interests of the Council.
- f. By appointing a bidder to carry out further work in connection with a main project following provision by such contractor of feasibility or initial work, it would be advantageous to the successful delivery of the main project; or
- g. By applying the Procedure Rules, it would not be possible to satisfy the best interests of the Council in terms of delivering one of social, or economic or well-being benefits.
- h. The works, services or supplies are legally required to be provided by a specific supplier.

- i. When carrying out security works where the publication of documents in the tendering process could prejudice the security of the work to be done.

50.2 Approval for an Exception shall only be given by the following persons:

Contract value (or additional contract value where approval is being sought pursuant to paragraphs 50.1 (e) and (f))	Authorised person
< £100,000	Corporate Head of Service within whose area of responsibility the contract falls
< £250,000	Strategic Director and Section 151 Officer
> £250,000	Cabinet Member / Cabinet

50.3 CPRs cannot be waived where the contract value is in excess of the relevant Public Procurement threshold.

50.4 A waiver of CPRs may not be sought retrospectively, unless it can be demonstrated to be essential for reasons of business continuity or recovery.

50.5 A request to waive CPRs must be made in writing (using the Exception Form) to the Service Lead - Corporate Support in the first instance, who will review the request and endorse if appropriate and then seek approval from the person authorised under CPR 41.2. The request must be accompanied by full reasons as to why the waiver is required, together with evidence and supporting information to demonstrate that the issue of the waiver will not prevent best value being obtained.

50.6 Any decision to waive CPRs must be made in writing by the person authorised under Procedure Rules 41.2 and no action shall be taken to enter into the contract until such time as a request has been submitted and properly approved.

50.7 If any approval to waive these CPRs falls within the key decision criteria, then that procedure must be also be followed.

50.8 The Council is subject to legal requirements to ensure fair competition for contracts of a value exceeding UK Public Procurement thresholds and subject to obligations under EU treaty to ensure that all contracts are awarded having

regard to the need to avoid any action that is discriminatory, improper or which distorts competition. It is therefore expected that the waiver of these Contract Procedure Rules will be limited.

## 51 Contract Disputes and Claims

51.1 Planning, relationship management, risk management and active contract management should be used to keep contract disputes to a minimum. The dispute resolution procedure set out in the Contract should be followed in the event of a contract dispute arising. The Service Lead – Legal shall be informed of a contractual dispute and claim.

## 52 Contract Exit

52.1 An Exit Plan, which can cover one or more Contracts, must be prepared for every Contract well in advance of contract expiry. It is recommended that this should be put in place at least 6 months in advance in order to allow for the approvals and pre-planning process and any re-procurement.

## 53 Retention of Contractual Documents

53.1 All procurement documentation (successful or unsuccessful) and contracts must be kept in accordance with the Council's adopted Records Retention Policy.

## 54 Concessions

54.1 Concession contracts are defined in the Concession Contracts Regulations 2016 and these regulations apply to concessions with a value exceeding approximately five million pounds inc VAT and can be found here: <http://www.legislation.gov.uk/ukxi/2016/273/introduction/made>

54.2 Officers should note that if the resulting contract would be a mix of services, works and a concession, the PCR2015 shall apply.

54.3 When letting concessions, you must comply with the Concession Contracts Regulations 2016 where they apply. If there is any inconsistency between the CPRs and these regulations, the regulations apply.

54.4 Officers shall consult the Service Lead – Corporate Support or Service Lead – Legal if a contract may fall within the Concession Contracts Regulations 2016. Threshold amounts for establishing the value of concession contracts are also set out in Regulation 9 of the Concession Contracts Regulations 2016.

## 55 Contracts outside any of the above provisions in the CPR

55.1 Approval for a contract falling outside any of the above provisions, inclusive of property and grant agreements or where there is an element of uncertainty, shall abide by the provisions of this Constitution, in particular [Article 14](#) (Decision Making) and authority is by the following persons:

Contract value (or additional contract value where approval is being sought pursuant to paragraphs 50.1 (e) and (f))	Authorised person
< £100,000	Corporate Head of Service within whose area of responsibility the contract falls
< £250,000	Strategic Director and Section 151 Officer
> £250,000	Cabinet Member / Cabinet

## Part 4.8 – Officer Employment Procedure Rules

### 1 Recruitment and appointment

#### 1.1 Declarations

- a. The Council will require any candidate for appointment as an employee to state in writing whether they have any connections to an existing Member or employee of the Council or of the spouse or partner of such persons.
- b. A candidate who does not disclose such a relationship may be disqualified from consideration, and if appointed, may be liable to dismissal.
- c. Every member and officer of the Council will inform the Head of Service concerned when they become aware of an application by a relative.
- d. No candidate connected to a Member or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by them.

#### 1.2 Seeking support for appointment

- a. The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

### 2 Recruitment of Head of Paid Service and Chief Officers

#### 2.1 For the purposes of these rules, the term “Chief Officers” shall mean the Chief Executive and the Directors.

#### 2.2 Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among existing officers, the Council will:

- a. Draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed; and
- b. Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

### 3 Appointment of Chief Executive

#### 3.1 Before an offer of appointment is made, Council will be required to approve the appointment of the Head of Paid Service following the recommendation of the Appointments Panel.

### 4 Appointment of Directors

#### 4.1 The Appointments Panel will appoint Directors.

4.2 An offer of employment as a Director shall only be made where no well-founded objection from any Member of the Executive has been received.

## 5 Other Appointments

5.1 Officers below Chief Officer. Appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee, and may not be made by Members.

5.2 Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## 6 Disciplinary Action

6.1 Disciplinary action for the dismissal of the Head of Paid Service, Chief Financial Officer or Monitoring Officer shall take place in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2015. The HR Sub-Committee (where applicable) shall be the "Panel" referred to in Schedule 3.

6.2 Suspension: The Head of Paid Service, Directors, Monitoring Officer or Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months unless the Investigator recommends the suspension should continue beyond that point.

6.3 Members will not be involved in disciplinary action against any officer below Chief Officer level, except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Such disciplinary action will be undertaken by the Head of Paid Service or an officer nominated by them.

6.4 The HR Sub-Committee (where applicable) will make recommendations to Council for the dismissal of the Head of Paid Service, Chief Financial Officer or Monitoring Officer and Council must approve that dismissal before notice is given to that person.

6.5 The HR Sub-Committee (where applicable) shall approve any disciplinary action, short of dismissal, against the Head of Paid Service, Chief Financial Officer or Monitoring Officer.

6.6 Subject to the provisions of The Local Authorities (Standing Orders) (England) Regulations 2015 all actions will be in accordance with both the JNC Conditions of Service for Chief Executives/Chief Officers and the Council's employment policies.

6.7 The HR Sub-Committee (where applicable) will approve the dismissal of a Director.



- 6.8 Notice of the dismissal of the Chief Executive or any Director or assistant to a political group must be given to the Executive in accordance with paragraph 6 of Part II to Schedule I of the Local Authorities (Standing Orders) (England) Regulations 2015.
- 6.9 Directors, Chief Officers and the Head of Paid Service have a right of appeal against dismissal to a HR Sub-Committee (where applicable) specifically appointed for that purpose.

## Part 5.1 - Members' Code of Conduct

Members of Winchester City Council have a responsibility to represent the community and work constructively with officers and partner organisations to secure better social, economic and environmental outcomes for all.

### 1 Introduction and Interpretation

- 1.1 This Code applies to you as a member of the City Council ('the authority').
- 1.2 It is your personal responsibility to comply with it. You should read this Code together with the general principles of public life on which it is based and which are set out at in the Code.
- 1.3 In this Code: 'meeting' means any meeting of:
  - g. The authority, the executive, any Committees, Sub-Committee, joint Committee, area or local Committee;
  - h. Members in formal or informal meetings with other members and/or with officers relating to the business of the authority;
- 1.4 'Member' includes a co-opted member and an appointed member.
- 1.5 If you need guidance on any aspect of this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.
- 1.6 In accordance with the Localism Act 2011 provisions and the Seven Principles of Public Life (known as the Nolan Principles), when acting in this capacity members must commit to behaving in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in this authority.

### 2 Selflessness

- 2.1 Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### 3 Integrity

- 3.1 Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

### 4 Objectivity

4.1 In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## 5 Accountability

5.1 Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## 6 Openness

6.1 Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

## 7 Honesty

7.1 Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## 8 Leadership

8.1 Holders of public office should promote and support these principles by leadership and example.

8.2 The Act further provides for registration and disclosure of interests and in Winchester City Council this will be done as follows. The Monitoring Officer is responsible for maintaining the register of Members' interests as set out in Section 29 (1) of the Localism Act 2011. Members are required to complete a register of Members' Interest form which should record the information set out below. In addition, Members have an obligation to declare interests as set out below:

## 9 Interests

### 9.1 Interests – Disclosable Pecuniary Interests

A Member, present at a meeting of the Council, or any Committee, Sub-Committee, joint Committee or joint Sub-Committee of the Council, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

- a. Must not participate in any discussion of the matter at the meeting
- b. Must not participate in any vote taken on the matter at the meeting;
- c. Must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;

- d. If the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
- e. Must leave the room while any discussion or voting takes place, unless they have requested and obtained a written dispensation from the Council's Monitoring Officer in advance of the relevant meeting.

## 10 Register of interests

### 10.1 Disclosable Pecuniary Interests

Within 28 days of becoming a Member of the Council, each Member must register any Disclosable Pecuniary Interests (DPIs) they may have for publication in the Register of Members' Interests (and notify the Council's Monitoring Officer of any changes thereafter within 28 days). (See Appendix A to this Code.)

### 10.2 Non-Pecuniary Interests

Within 28 days of becoming a member of the Council, each member must register any Non-Pecuniary Interests (NPIs) (and notify the Council's Monitoring Officer of any changes thereafter within 28 days). These are such Non-Pecuniary Interests as from time to time are referred to on the Register of Members' Interest form. (These requirements are determined by the Council in its discretion or by legislation and statutory guidance. Members may participate in any discussions or debates relating to or concerning any NPIs after the date of registration. (See Appendix A to this Code)

### 10.3 Further General Guidance

- a. Each member must declare any DPIs or NPIs to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending.
- b. Each member must register, within 28 days, any gifts or hospitality received in accordance with the instructions issued within the Council by the Monitoring Officer.
- c. The Council's Register of Interests will be available for inspection at the Council offices during normal office hours, and will be published on the Council's website.

### 10.4 Sensitive interests

Where a Member considers that disclosure of an interest could lead to that Member, or a person connected with them, being subject to violence or intimidation, and the Monitoring Officer agrees, the interest may be excluded from the register. The register may state that the member has an interest, the details of which are withheld.

## 11 Member Conduct

11.1 Each member of Winchester City Council should ensure that their conduct addresses the statutory principles of the code of conduct by:

- a. Championing the needs of all residents – the whole community and in a special way their constituents, including those who did not vote for them - and putting the interests of residents first.
- b. Dealing with representations or enquiries from residents, Members of our communities and visitors fairly, appropriately and impartially.
- c. Not allowing other pressures, including the Member's financial interests or financial interests of others connected to them, to deter from pursuing constituents' casework, the interests of the Council's area or the good governance of the Council in a proper manner.
- d. Exercising independent judgement and not compromising their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way in which the member performs their duties.
- e. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- f. Being accountable for decisions and co-operating when scrutinised internally and externally, including by local residents.
- g. Contributing to making the Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding members to account, but restricting access to information when the wider public interest or the law requires it.
- h. Behaving in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including those relating to the use of the Council's resources.
- i. Valuing member colleagues and officers and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government.
- j. Always treating people, organisations and the public with respect.
- k. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.
- l. Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## 11.2 Members must not:

- a. Do anything which may cause the Council to breach any of the Council's duties under the Equality Act 2010
- b. Bully any person; Examples of bullying behaviour include:
  - (i) Spreading malicious rumours, insulting someone by word or behaviour
  - (ii) Copying memos that are critical about someone to others who do not need to know
  - (iii) Ridiculing or demeaning someone – picking on them or setting them up to fail
  - (iv) Exclusion or victimisation
  - (v) Unfair treatment
  - (vi) Overbearing supervision or other misuse of power or position
  - (vii) Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
  - (viii) Making threats or comments about job security without foundation
  - (ix) Deliberately undermining a competent worker by overloading and constant criticism
  - (x) Preventing individuals progressing by intentionally blocking promotion or training opportunities
- c. Intimidate or attempt to intimidate any person who is or is likely to be:
  - (i) A complainant,
  - (ii) A witness, or
  - (iii) Involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including myself) has failed to comply with their Council's code of conduct; or
- d. Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council. For the avoidance of doubt, any breach of the Member /Officer Protocol may be regarded as a breach of this Code.
- e. Disclose information provided in confidence by anyone, or information acquired which the member believes, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) The member has the consent of a person authorised to give it;
  - (ii) The member is required by law to do so;

- (iii) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) The disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Council; or
- f. Prevent another person from gaining access to information to which that person is entitled by law
- g. Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.
- h. Use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
- i. When using or authorising the use by others of the resources of the Council
- j. Act in accordance with the Council's reasonable requirements;
- k. Ensure that such resources are not used improperly for political purposes (including party political purposes).
- l. Publicly criticise any member or officers' competence, conduct, judgement or performance of duties.

### 11.3 Contact with external bodies and contractors

Members should note the following guidance and comply accordingly.

- a. On occasions, a Member may be involved not only in business meetings of external bodies to which they have been appointed by the Council but also with third party contractors and developers with which the Council has a relationship or is seeking to have one. Members may also be approached by speculative developers. Members must be mindful of the scope and nature of any interventions with which they initiate or are involved in. There is a line between fact finding and awareness raising and being drawn into a position of negotiating on behalf of the Council. Should the latter occur, or be necessary, the Member should ensure that an appropriate Council officer is in attendance to ensure a consistent and fair approach is taken across the Council. In some scenarios, a Member could potentially jeopardise contractual negotiations already underway or even expose the Council to legal challenge.
- b. The officer in attendance should take brief notes of the purpose of the meeting, who was in attendance, when and where it took place, what was discussed and a note of actions arising from it. This should be made available to all parties as soon as possible after the meeting, and a central record kept that the meeting took place.

## 11.4 Decision Making

- a. When reaching decisions on any matter Members must have regard to any relevant advice provided to them by:
  - (i) The Council's s151 Officer; or
  - (ii) The Council's Monitoring Officer, where that officer is acting pursuant to their statutory duties.
- i. Members must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.



## Appendix A

### Part 1. Description of categories of Disclosable Pecuniary Interests

A member has a Disclosable Pecuniary Interest in any business of the Council if it is of a description set out in 1 - 7 below and is either:

- b. An interest of the Member
- c. An interest of the Member's spouse or civil partner
- d. An interest of a person with whom the Member is living as husband and wife or as civil partners

And, in the case of paragraphs (b) and (c), the Member is aware that they have the interest.

In these descriptions the term "relevant person" is used to mean the individual as Member and any such person as set out in paragraphs b) and c).

1. Any employment, office, trade, profession or vocation carried on for profit or gain.
2. Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out their duties as a Member, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
3. Any beneficial interest in securities of a body where –
  - a. That body (to their 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
4. Any contract which is made between the relevant person, or a body in which they have a beneficial interest, and the Council:
  - a. Under which goods or services are to be provided or works are to be executed; and
  - b. Which has not been fully discharged.

5. Any beneficial interest in any land in the Council's area.
6. Any tenancy where to the Member's knowledge:
  - a. The landlord is the Council and
  - b. The tenant is a body in which a relevant person has a beneficial interest.
7. Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.

## Part 2 - Description of categories of Non Pecuniary Interests

1. Membership of any body of which they are a member or in a position of general control or management and to which they were appointed or nominated by the Council;
2. Membership of any body
  - a. Exercising functions of a public nature (such as another Local Authority);
  - b. Directed to charitable purposes; or
  - c. One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
  - d. of which they are a member or in a position of general control or management
3. Any close friend or relative entering or seeking to enter into a contractual arrangement in any capacity with the Council
4. Any person from whom the Member has received a gift or hospitality with an estimated value of at least £50.

## Part 5.2 - Protocol for Councillor/Officer Relations

### 1 Introduction and Principles

- 1.1 The objectives of this Protocol are to guide Councillors<sup>4</sup> and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of Conduct for both officers and Councillors. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Councillors and officers must at all times observe this Protocol. This Protocol is a local extension of the Councillors' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Councillors' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Audit and Governance Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Councillors receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Councillors.
- 1.6 Details of the resources provided to Councillors and officer will be provided subsequently in a separate document.
- 1.7 Given the variety and complexity of relations between Councillors and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

### 2 The Role of Councillors

- 2.1 Councillors have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts

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<sup>4</sup> Unless the context indicates otherwise, the terms Councillor and Councillors include non-elected i.e. co-opted Councillors as well as elected Councillors

are likely, Councillors may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer

- 2.2 At all times Councillors should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3 Collectively, Councillors are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Councillor represents the interests of, and is an advocate for, their ward and individual constituents. They represent the Council in the ward, respond to the concerns of constituents, and often serve on local bodies.
- 2.6 Some Councillors have roles relating to their position as Councillors of the Cabinet, Overview and Scrutiny Committees, and other public bodies.
- 2.7 Councillors serving on Overview & Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They can also monitor local health service provision.
- 2.8 Councillors who serve on Committees and Sub-Committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Cabinet.
- 2.9 Some Councillors may be appointed to represent the Council on other local, regional or national bodies.
- 2.10 As politicians, Councillors may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Councillors they have a duty always to act in the public interest.
- 2.11 Councillors are not authorised to instruct officers to undertake work or disclose information other than:
  - a. Through the formal decision-making process where for example the individual Councillor has a need to know or who has a role in the decisions to be made under delegated powers;
  - b. To request the provision of the usual consumable resources provided by the Council for Councillors' use.

- 2.12 Councillors are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. Where the Council is conducting negotiations formally or having informal discussions with a view to financial transactions, it is not appropriate for individual Councillors to conduct parallel discussions outside the remit conducted by officers and nominated Councillors under delegated powers.
- 2.13 Councillors must not take actions which are unlawful, financially improper or likely to amount to maladministration. Councillors must avoid taking actions which would be detrimental to the reputation of the Council.
- 2.14 Councillors must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change their professional advice or making public criticism of officers without first referring the matter to the officer's line manager, following the Council's procedures.
- 2.15 Councillors should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Councillors should be aware of the requirements of the take into account that where officers are involved in commercial transactions at a preliminary to or part of delegated decision making then it is not open to an individual Councillor to conduct parallel discussions or negotiations or to seek disclosure of financial information where there is not a demonstrated need to know that relates to the Councillor's specific exercise of their Councillor duties in each case. that where officers are involved in commercial transactions at a preliminary to or part of delegated decision making then it is not open to an individual Councillor to conduct parallel discussions or negotiations or to seek disclosure of financial information where there is not a demonstrated need to know that relates to the Councillor's specific exercise of their Councillor duties in each case.

### 3 The Role of Officers

- 3.1 Officers are responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors. Officers will inform ward Councillors of any council meeting or consultation or officer meetings relevant to their ward.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.

- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Councillors, the media or other sections of the public.
- 3.7 Officers have the right not to support Councillors in any role other than that of a Councillor, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal/professional capacity.

#### 4 The Relationship

- 4.1 Councillors are elected by, and officers are servants of the public and Councillors and officers are indispensable to one another. However, their responsibilities are distinct. Councillors are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Councillors (individually and collectively) and to carry out the Council's work under the direction and control of their line manager and the Council. Accordingly, where officers are implementing Council decisions, it is inappropriate for individual Councillors to seek to instruct officers to conduct work outside the remit of the delegated decision being implemented or on parallel proposals initiated by the individual Councillor.
- 4.2 The conduct of Councillors and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Councillor/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.

- 4.4 Informal and collaborative two-way contact between Councillors and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Councillors and Officers can damage the relationship of mutual respect and prove embarrassing to other Councillors and Officers. To protect both Councillors and officers, officers should address Councillors as 'Councillor X/Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Strategic Director and their respective Cabinet Councillor.
- 4.5 Councillors and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A Councillor should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 4.8 A Councillor who feels they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an officer should:
- a. Avoid personal attacks on, or abuse of, the officer at all times,
  - b. Ensure that any criticism is well founded, constructive and based on evidence,
  - c. Never make a criticism in public, and
  - d. Take up the concern with the officer privately.
- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, they should raise the matter with the respective Strategic Director. The Director will then look into the facts and report back to the Councillor. If the Councillor continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with

- 4.10 Robust challenge is important in ensuring that policies and service performance are meeting the Council's strategic objectives, especially during the Overview & Scrutiny process. Nothing in this protocol is therefore intended to stop Councillors holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from an Overview & Scrutiny Committee except in relation to Council functions. The Scrutiny Committee may also call-in Key Decisions before they are implemented. Councillors may also individually request sight of delegated decision notifications and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that they have been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Councillor, they should raise the matter with their Director, especially if they do not feel able to discuss it directly with the Councillor concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Councillor and/or group leader or by referring the matter to the Monitoring Officer.

## 5 Breaches of the Protocol

- 5.1 In relation to Councillors, failure to comply with the Councillors' Code of Conduct may lead to a complaint to the Monitoring Officer, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Councillor committing a criminal offence and the matter being referred to the Police where outside the jurisdiction of the Council and/or Monitoring Officer.
- 5.2 Allegations of breaches by officers will be referred to the employee's line manager for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

## 6 Monitoring and Interpretation

- 6.1 The Monitoring Officer will report to the Council regarding any proposals for amendment to this protocol.
- 6.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.



## Part 5.3 - Members Complaints Procedure

### 1 Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted Member of this authority (or of a Town or Parish Council within its area) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the authority (or of a Town or Parish Council within the authority’s area), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member (or a Member or co-opted Member of a Town or Parish Council) against whom an allegation has been made.
- 1.4 Attached to this document are the following appendices:
  - Appendix 1 – Complaints Flowchart. The content of this is self-explanatory
  - Appendix 2 – Standards Complaints Assessment Criteria. This sets out complaints which would normally not be referred for investigation under this procedure
  - Appendix 3 – Standards Complaints Investigation Procedure. This sets out the procedure to be adopted when a complaint is to be investigated
  - Appendix 4 – Complaints – Standards Sub-Committee Procedure. This sets out the procedure to be adopted when the Standards Sub-Committee is considering a complaint referred to it

### 2 The Code of Conduct

- 2.1 The Council has adopted a [Code of Conduct for Councillors](#), which is available for inspection on the authority’s website and on request from Reception at the Council Offices., which is available for inspection on the authority’s website and on request from Reception at the Council Offices.
- 2.2 Each Town and Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should inspect any website operated by the Town or Parish Council and request the

Town or Parish Clerk to allow you to inspect the Town or Parish Council's Code of Conduct.

### 3 Making a complaint

#### 3.1 If you wish to make a complaint, please write or email to:

The Monitoring Officer, Winchester City Council, Colebrook Street, Winchester, Hampshire SO23 9LJ, email: [monitoringofficer@winchester.gov.uk](mailto:monitoringofficer@winchester.gov.uk)

3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.

3.3 In order to ensure that the Council has all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Reception at the Council Offices.

3.4 Please provide the Council with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

3.5 The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance. The Council will endeavour to deal with a complaint within 6 months.

3.8 On receipt of a complaint the Monitoring Officer will consider whether the complaint falls within a category that would normally not be referred to investigation. The categories are set out in Appendix 2.

### 4 Will your complaint be investigated?

4.1 Where the Monitoring Officer requires additional information in order to come to a decision, they may come back to you for such information, and may request information from the Member against whom your complaint is directed. Where

your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Town or Parish Council before submitting it to the Sub-Committee.

- 4.2 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- 4.3 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.
- 5 How is the investigation conducted?
  - 5.1 If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who they need to interview.
  - 5.2 The Investigating Officer will normally write to the Member against whom you have complained and provide them with a copy of your complaint, and ask the Member to provide their explanation of events, and to identify what documents they need to see and who they needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.
  - 5.3 At the end of the investigation, the Investigating Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
  - 5.4 Having received and taken account of any comments which you may make on the draft Investigation Report, where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.
  - 5.5 Appendix 3 sets out in table form the complaints investigation procedure.

- 6 What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?
  - 6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to the Town or Parish Council, where your complaint relates to a Parish Councillor, notifying you that they are satisfied that no further action is required, and give you both a copy of the Investigation Final Report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.
- 7 What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?
  - 7.1 The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Standards Hearing Sub-Committee or, after consulting the Independent Person, seek local resolution.

a. Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you may consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Governance Committee and the Town or Parish Council for information, but will take no further action.

b. Hearing

In cases where the Monitoring Officer refers a complaint for a hearing, this will be dealt with by the Standards Hearing Sub-Committee. This is a public hearing before a panel of three Council Members. The procedure to be adopted by the Sub-Committee is set out in Appendix 4.

The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and give pre-hearing directions to help the hearing stage move forward smoothly.

At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as

the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person and/or the Monitoring Officer, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee will give the Member an opportunity to make representations to the Committee and will consult the Independent Person but will then decide what action, if any, to take in respect of the matter.

The Council has agreed a procedure for the hearings, which is attached as Appendix one to these arrangements.

- 8 What action can the Standards Sub-Committee take where a Member has failed to comply with the Code of Conduct?
  - 8.1 The Sub-Committee may decide to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may consider:
    - a. A formal letter to the Councillor found to have breached the code;
    - b. Formal censure by motion;
    - c. Publish its findings that a member has broken the code of conduct in respect of the member's conduct;
    - d. Report its findings to the Authority [or to the Parish Council] for information;
    - e. Advise the member's Group Leader of the finding;
    - f. Instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
    - g. Withdraw [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access
    - h. Issue a press release or other appropriate publicity;
  - 8.2 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

- 9 What happens at the end of the hearing?
- 9.1 At the end of the hearing, the Chairperson will state the decision of the Standards Hearing Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
- 9.2 The Monitoring Officer will prepare a formal decision notice in consultation with the Chairperson of the Sub Committee, and send a copy to you, to the Member and to the Town or Parish Council, making that decision notice available for public inspection.
- 10 Who are the Standards Hearing Sub-Committee?
- 10.1 It is a Sub-Committee comprising three Members of the Council's Audit and Governance Committee.
- 10.2 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.
- 11 Who is the Independent Person?
- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.
- 11.2 A person cannot be "independent" if they:
- a. Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
  - b. (Is or has been within the past 5 years, a member, co-opted member or officer of a Parish Council within the authority's area), or
  - c. Is a relative or close friend, of a person within paragraph 11.2.a or 11.2.b above. For this purpose, a "relative" means:
    - (i) Spouse or civil partner;
    - (ii) Living with the other person as husband and wife or as if they were civil partners;
    - (iii) Grandparent of the other person;
    - (iv) A lineal descendent of a grandparent of the other person;
    - (v) A parent, sibling or child of a person within paragraphs 11.2.c.(i) or 11.2.c.(ii); or

(vi) A spouse or civil partner of a person within paragraphs 11.2.c.(iii), 11.2.c.(iv) or 11.2.c.(v); or

(vii) Living with a person within paragraphs 11.2.c.(iii), 11.2.c.(iv) or 11.2.c.(v) as husband and wife or as if they were civil partners.

## 12 Revision of these arrangements

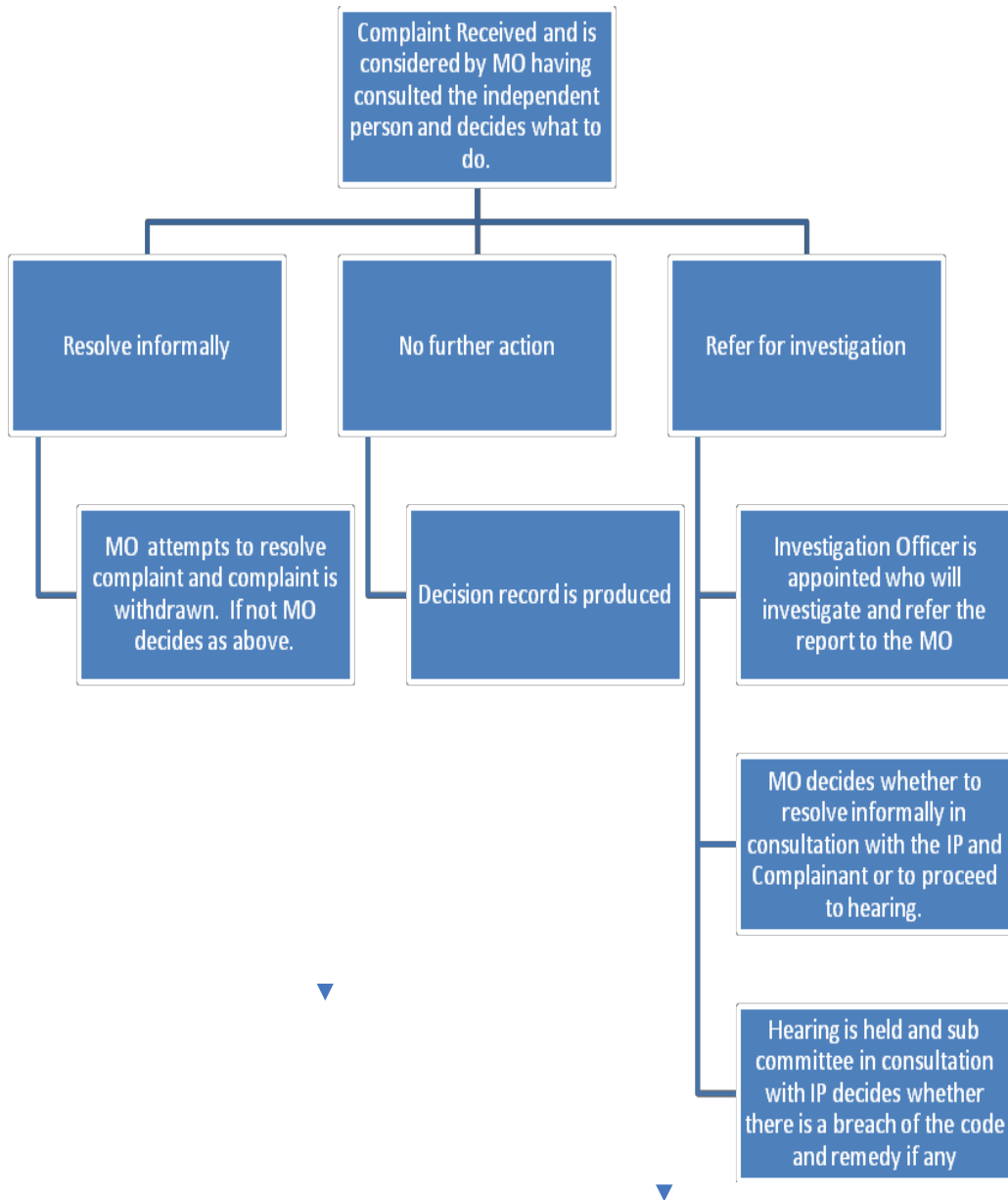
12.1 The Council may by resolution agree to amend these arrangements, and has delegated to the Chairperson of the Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## 13 Appeals

13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.

13.2 If you feel that the authority has failed to deal with your complaint properly, you can make a complaint to the Local Government Ombudsman.

**APPENDIX 1**  
**COMPLAINTS PROCEDURE FLOWCHART**





## **APPENDIX 2**

### **STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

Complaints which would not normally be referred for investigation

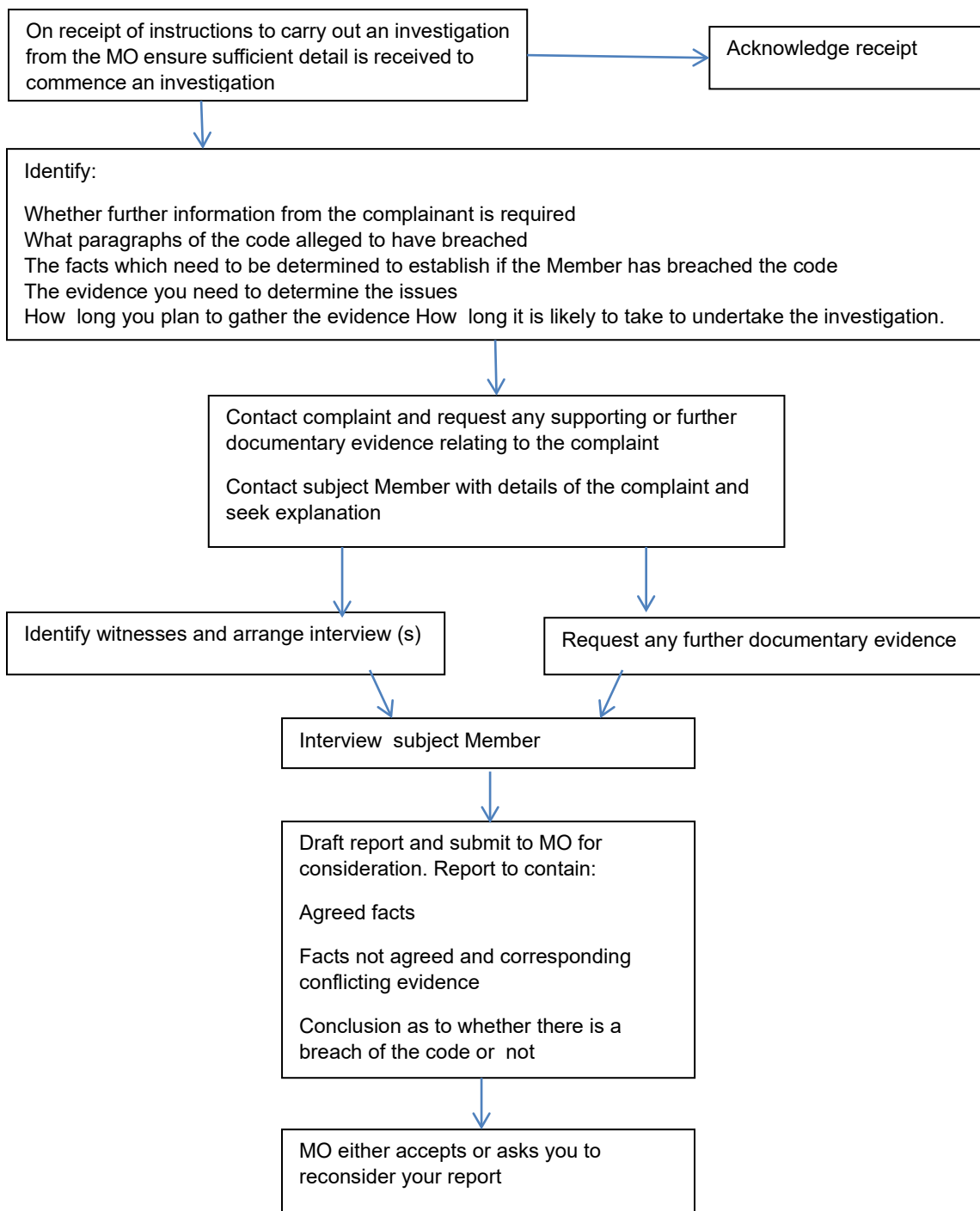
- 1 The complaint is not considered sufficiently serious to warrant investigation; or
- 2 The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
- 3 The complaint appears to be politically motivated; or
- 4 It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
- 5 It is about someone who is no longer a Councillor
- 6 There is insufficient information available for a referral; or
- 7 The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
- 8 The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
- 9 The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
- 10 It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
- 11 Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

## APPENDIX 3

### STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 for co-operation with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



## **APPENDIX 4**

### **Complaints Standards Sub-Committee Procedure**

#### **1 Quorum**

- 1.1 Three Members must be present throughout the hearing to form a quorum.  
The Sub-Committee shall elect a Chairperson for the meeting.

#### **2 Opening**

- 2.1 The Chairperson explains the procedure for the hearing and reminds all parties to turn off mobile phones.
- 2.2 The Chairperson asks all present to introduce themselves.
- 2.3 The Councillor will be asked whether they wish to briefly outline their position.

#### **3 The Complaint**

- 3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.
- 3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions arising from the Investigator's report and not to make a statement).
- 3.3 Members of the Sub-Committee may question the Investigating Officer and/or any witnesses.

#### **4 The Councillor's case**

- 4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).
- 4.2 The Investigating Officer may question the Councillor and/or any witnesses.
- 4.3 Members of the Sub-Committee may question the Member and/or any witnesses.

#### **5 Summing Up**

- 5.1 The Investigating Officer may sum up the Complaint.
- 5.2 The Member (or their representative) may sum up their case.

## Part 6 - Member's Allowance Scheme

### 1 Background

#### 1.1 Legislative Framework for Scheme

- a. The Council is currently empowered to remunerate Members under the Local Authorities (Members Allowances) Regulations 2003, as amended (principally SI Nos 1021 and 1692 of 2003) (the Regulations). These Regulations are made under the provisions of the Local Government Act 2000 and the Local Government & Housing Act 1989. The Local Government Act 2000 made provision for an Independent Remuneration Panel to be established to make recommendations upon the Scheme and provided for statutory guidance to be issued by the Secretary of State. The Council has had regard to the report of the Panel and the statutory guidance in producing this Scheme. Please note that legislation does not allow for provision for any pension entitlement for Members under the Local Government Pension Scheme.
- b. This document contains details of the Scheme, comprising of Basic Allowance and Special Responsibility Allowances, as set out in Section 2 below and the relevant part of the Schedule. The Dependants' Carers' Allowances, Co-optees' Allowances, travel and subsistence provisions also form part of the Scheme. It is also now inclusive of a Parental Leave policy.

#### 1.2 The Independent Remuneration Panel

- a. An Independent Remuneration Panel, appointed by the Council under the provisions of the Local Government Act 2000, from time to time makes recommendations to the Council as to the contents of its Allowances Scheme.
- b. The Panel has met in 2001, 2002, 2003, 2006, 2010, 2011, 2014, 2017, 2019 (an interim review) and in 2022.
- c. At its meeting on 18 January 2023, Council delegated authority to the Strategic Director and Monitoring Officer to finalise a Members' Allowances Scheme as is set out here to take effect from 1 April 2023. Whilst taking into account the report and recommendations of the 2022 Independent Remuneration Panel, the Council decided to adopt an alternative Scheme, which can be viewed as part of the [agenda and minutes of the Council meeting](#).
- d. In summary, by adjusting the 'public service discount' applied and also the Band 1 multiplier, the Scheme adopted by the Council proposed different levels for the Basic and Special Responsibility Allowances compared to that recommended by the Independent Remuneration Panel. All of the roles entitled to receive Special Responsibility Allowances were proposed to be the same as those in the recommended Scheme and all the other proposals in the Independent Remuneration Panel's Scheme were also adopted.

These included the Travelling and Subsistence Allowance, Dependant Carers Allowance and also the outline in the Panel's report as a basis of a policy to support parental leave for councillors.

- e. The approved Scheme sets out the only categories of duties for which payment is eligible. The Scheme does not cover every duty that is carried out by Members.
- f. Please see paragraph 8 below for further information regarding indexation.

### 1.3 Definitions

- a. Under the Scheme, a year is defined as commencing 1 April and concluding 31 March.
- b. Any period of 24 hours shall be treated as having commenced at 3 am on the day in question.
- c. For the purposes of this Scheme, the phrase 'Political Group' shall have the same meaning as Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990.

## 2 Basic and Special Responsibility Allowances for Councillors

### 2.1 Basic Allowance

- a. A Basic Allowance is payable. The current rate is set out in Schedule 2.
- b. The Basic Allowance is a flat rate payable to all Members, regardless of individual duties, and is primarily intended to reflect Members' constituency role.
- c. It is also intended to cover the standard incidental costs that Members incur as part of their general duties. In particular it covers the cost of telephone calls from Members' houses, broadband, printing leaflets for constituency surgeries, minor office equipment and use of their homes for Council duties.

### 2.2 Special Responsibility Allowances

- a. Some duties undertaken by Members are eligible for a Special Responsibility Allowance (SRA). The eligible duties and amounts payable are set out in Schedule 2.
- b. A Member is only entitled to claim one SRA Allowance at any one time. If the Member holds more than one position which is eligible for such an allowance, they will notify the Democratic Services Team Manager as to the SRA that will be claimed, or otherwise the higher will be assumed.
- c. The Band 6 SRA set out in Schedule 2 provides for the Council to identify Chairpersons of task and finish and/or ad hoc working groups/panels with significant impact as being eligible for the allowance. These posts are not specifically identified within the Scheme itself but are, in accordance with the

recommendations of the Independent Remuneration Panel, identified by resolution of the Council from time to time. However, no more than 50% of the Council (23 Members) may receive an SRA at any one time.

- d. This provision limits the number of posts that can be allocated a Band 6 SRA allowance in this category. It also means that if the take up of all SRA's for the other positions specifically allocated in the Scheme changes; this may affect the total number of SRA's payable at any one time. In these circumstances, the Council will have to reconsider which of the task and finish etc. allowances can still be paid.

### 2.3 Part-year Entitlement to Basic and Special Responsibility Allowances

- a. Where a Councillor is elected or resigns as a Councillor part way through the year, the amount of Basic Allowance payable is calculated by dividing the annual sum of the basic allowance (set out in Schedule 2) by 365 and multiplying the product by the number of days that the duty was undertaken.
- b. Where a Councillor commences or ceases to carry out a Special Responsibility, as defined above, part way through the year, the amount payable is calculated by dividing the annual sum of the Special Responsibility Allowance (set out in Schedule 2) by 365 and multiplying the product by the number of days that the duty was undertaken.
- c. In the event that the Council revokes a Scheme during the Municipal Year, then an appropriate adjustment shall be made in respect of any Basic Allowance or Special Responsibility Allowance which:-
  - (i) Has already been paid under the previous scheme in respect of the remainder of the year from which the further Scheme has effect, or
  - (ii) Is to be paid in respect of any part of the year during which the previous Scheme had effect.
- d. In the event of an amendment to the amount of Basic or Special Responsibility Allowance part way through the year, the entitlement shall be calculated by reference to dividing each annual sum by 365 and multiplying the product by the number of days during which each level of allowance was payable.

## 3 Travel and Subsistence

### 3.1 Travel

- a. Travel costs are payable in respect of approved duties in accordance with the criteria set out in Schedule 1. In some instances, the Schedule makes distinctions between rates that can be claimed for travel within the administrative boundaries of Winchester City Council and for travel outside those boundaries. Travel costs also apply to payments to Co-opted Members in the circumstances set out in paragraph 4 below. Claims can be made for the following:

(i) Car, Van or Motor Cycle Mileage:

These rates are set out in Schedule 2. The rates may be increased by a supplementary rate when carrying passengers; these rates are also set out in Schedule 2. This rate applies to all passengers up to a maximum of four. Supplementary claims may also be made in respect of expenditure necessarily incurred on tolls and parking fees. Where possible, receipts for such supplementary claims should be obtained and attached to travel claim forms.

(ii) Cycle Mileage:

At the rates as set out in Schedule 2.

(iii) Bus fares:

Shall not exceed the amount of ordinary fare or any available cheap fare. Where possible, receipts should be obtained and attached to travel claim forms.

(iv) Rail & Ferry:

When more than one class is available, the rate by ferry is economy class, and by rail second class, subject to supplementary payments for seat reservation fees, deposit, luggage portage costs, and sleeping accommodation where appropriate on overnight trains/ferries.

Reduced rate tickets should be used where practicable. Where possible, receipts should be obtained and attached to travel claim forms.

(v) Taxi/Private Hire:

When it is difficult to utilise public transport at standard rates or otherwise, and the prior approval of the Democratic Services Manager has been obtained, the actual fare for travel by taxi/private hire vehicle, together with reasonable gratuity will be paid. Where possible, receipts should be obtained and attached to travel claim forms.

When taxi/private hire is used out of choice and without prior approval, the reasonable alternative fare for public transport referred to in (iii) and (iv) above applies. However, if the Democratic Services Manager is satisfied that it was reasonable in all the circumstances that taxi/private hire was used without prior approval, then they may exercise discretion to authorise actual fare and reasonable gratuity.

(vi) Car Hire:

When hiring a vehicle, the normal mileage rates that apply for private car use; or when it is difficult to utilise public transport at standard rates or otherwise, and the prior approval of the Democratic Services Manager has been obtained, the actual cost of hire. In these circumstances receipts should be obtained and attached to travel claim forms.

(vii) Air Travel:

When travelling by air, the rates shall not exceed the rates for alternative means of transport (e.g. train fare), unless the Democratic Services Manager has agreed that the saving in travelling time justified the payment of the actual air fare. Where possible, receipts should be obtained and attached to travel claim forms.

Please note that when Members travel outside the Council's administrative boundary on approved duties, they should choose the most cost-effective method of travel that meets the reasonable needs of their travel requirements.

### 3.2 Subsistence

- a. Subsistence is **only** payable in respect of approved duties outside the Winchester District. However, the Democratic Services Team Manager may authorise the arranging of meals/refreshment on appropriate occasions. The Democratic Services Manager may also authorise subsistence payments in accordance with Schedule 1 (Category B). Subsistence may also be paid to Co-opted Members, in the circumstances set out in Paragraph 5 below. The rates are set out in Schedule 2, and subject to the following criteria:
- (i) In the case of an absence, not involving an absence overnight from the usual place of residence:
- Breakfast Allowance (more than 4 hours away from the usual place of residence, before 11am)
  - Lunch Allowance (more than 4 hours away from the normal place of residence, including the lunchtime, between 12 noon and 2pm)
  - Tea Allowance (more than 4 hours away from the normal place of residence, including the period 3pm to 6pm)
  - Evening Meal Allowance (more than 4 hours away from normal place of residence, ending after 7pm)
- b. Whenever possible in relation to accommodation and related subsistence for meetings outside the authority, the Member will ask the Democratic Services Team Manager to make the booking and the necessary payments at such reasonable rates as they may determine.
- c. Otherwise a separate allowance rate is payable in respect of an absence overnight from the usual place of residence, which is set out in Schedule 2. These rates cover a continuous period of absence of 24 hours, and should be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body during the period to which the allowance relates, or in respect of any accommodation for which the Council is making a direct payment.
- d. Where meals are taken on a train or elsewhere during the periods falling within the categories set out in (a) (i) above on travel outside the Winchester



District, reimbursement for reasonable actual costs of the meals will be given in lieu of subsistence allowances on production of receipts.

### 3.3 Accommodation

- a. The Democratic Services Team Manager will determine those occasions when it is appropriate for a Member attending a conference, seminar or training course, to travel to the venue on the evening before the event and incur a cost for overnight accommodation. For example, such consent would not normally be given for a conference starting at 10am in London, but may be allowed if that conference were in Birmingham or Manchester.

## 4 Dependants' Carers' Allowance

- 4.1 An allowance can be claimed to reimburse childcare/dependant carers' expenses in respect of attendance at any of the Internal Meetings set out in Schedule 1. This allowance does not apply to External Meetings (Schedule 1 - Category A) or any other activity.
- 4.2 The Allowance can be claimed in respect of paid care for:
  - a. Children up to and including 14 years old;
  - b. Relatives that are elderly or have physical or intellectual disabilities requiring care and not able to be left on their own;
- 4.3 Provided that they normally reside with the claimant and the paid carer is not a member of the claimant's immediate family or household.
- 4.4 In order to claim the Allowance, the Member must lodge a written declaration with the Democratic Services Team Manager, outlining the circumstances which entitle them to make a claim.
- 4.5 The allowance payable shall be the actual fee by hour of the carer, as set out in Schedule 2, with no maximum set figure for the number of hours subject to the general reasonableness of the claim.
- 4.6 As a guide for reasonableness, this allowance may be claimed for the duration of the meeting, together with up to one hour travelling time to and from the meeting, plus a short period for instruction/hand over with the carer.
- 4.7 Payment can only be made on production of a receipt or invoice from the paid carer.
- 4.8 Specialist care provision should be reimbursed at cost upon production of receipts. Medical evidence that this type of care is required must also be provided and be approved by an appropriate officer of the Council.

## 5 Parental Leave

- 5.1 There is no uniform national policy to support councillors who require parental leave for maternity, paternity, or adoption leave and although there is no legal right to parental leave of any kind for people in elected public office, such a policy goes further to help improve the diversity of councillors.
- 5.2 As part of its adoption of a Members Allowances Scheme, it was agreed that the following key provisions of a Parental Leave Policy be included in the latest scheme with effect from 1 April 2023.
- a. All Councillors shall continue to receive their Basic Allowance in full for a period up to six months in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption shared parental leave or sickness absence.
  - b. Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for a period of six months, in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence.
  - c. Where for reasons connected with sickness, maternity leave, adoption leave, paternity leave or shared parental leave a Councillor is unable to attend a meeting of the Council for a period of six months, a dispensation by Council can be sought in accordance with Section 85 of the Local Government Act 1972.
  - d. If a replacement to cover the period of absence under these provisions is appointed by Council or the Leader (or in the case of a party group position the party group) the replacement shall be entitled to claim a Special Responsibility Allowance pro rata for the period over which the cover is provided.
  - e. If a Councillor stands down, or an election is held during the period when a Councillor is absent due to any of the above and the Councillor is not re-elected or decides not to stand down for re-election, their Basic Allowance and any Special Responsibility Allowance will cease from the date they leave office.

## 6 Co-optees' Allowances

- 6.1 Co-optees' Allowances are only payable to Co-opted Members, as Basic/Special Responsibility Allowance is not payable.
- 6.2 The current rates for Co-optees' Allowances are set out in Schedule 2.
- 6.3 In the event that the Scheme is amended or revoked during the year, or a Member holds office for only part of the year, then the Co-optees' Allowance shall be adjusted in the same manner as for Basic and Special Responsibility Allowances – see Para 2.3 above.

6.4 The Travel and Subsistence Scheme applies to these duties.

## 7 Renunciation

7.1 A Councillor or co-opted Member may, by written notice to the Democratic Services Team Manager, choose to forego all or any part of their entitlement to any allowance under this scheme.

## 7.2 Membership of More Than One Authority

7.3 Where a Member is also a member of another authority, then that Member may not receive allowances from more than one authority in respect of the same duties.

## 8 Inflation Index

8.1 In the event that the Council decides that it is not necessary for the Scheme to be reviewed by the Independent Remuneration Panel in any year from 2023/24 onwards, then allowances should be increased annually in line with an appropriate percentage increase in the NJC Local Government pay award from April 2023. This may be a flat rate percentage increase or as in 2022/23 be based on a specific Spinal Column Point (SCP 29, 5.5%).

8.2 The increased allowances may be rounded up or down to allow division by a factor of 12.

8.3 The NJC inflation index is able to be used in lieu of a review by the Panel before the start of the relevant financial year. However, Regulation 10(5) of the 2003 Regulations (SI No 1021) provides that the Council cannot rely on an index for a period of longer than four years before seeking a further recommendation from the Independent Remuneration Panel. To that end, any index linkage agreed will be in line with staff salary increases for a maximum of four years.

8.4 In the event that the Council decides to operate such an index, rather than re-convening the Panel, it shall comply with the provisions of the relevant Regulations for the time being in force and ensure that an updated table of allowances, with the actual amounts payable, is published. Such updated allowances shall be added to Schedule 2 of the Constitution indicating the period from when they apply.

8.5 The amounts of the mileage allowances in the Travel Scheme are linked to the HM Revenue and Customs (HMRC) rates from time to time and updated by the Democratic Services Team Manager.

## 9 Administrative Procedure

### 9.1 Making Payments

a. Automated payments

- (i) The Basic Allowance, Special Responsibility Allowance, and Co-optees' Allowance where applicable, are administered through the payroll, and are paid automatically into Members' bank accounts using the Bank Automated Clearing System (BACS). Payments are made on a monthly basis on the last working day of each month. Payments are subject to deduction of National Insurance and Income Tax (where applicable).
- b. Making a Claim – Other Allowances
- (i) Other Allowances have to be claimed by Members and must be submitted **within two months** of the approved duty to the Democratic Services Team Manager, who will check the claim before onward transmission to the Payroll Team. Claims received no later than the fifteenth day of the month will be paid on the last working day of that month. **The Council has discretion as to whether any late claims should be paid.**
  - (ii) It is strongly recommended that claims are made on a monthly basis, in arrears.
  - (iii) Claims should be made, in writing and on the standard claim form, and signed to confirm that the duty has been carried out and that no other claim has been made for that duty. If claims can also be made from an outside body, then Members are encouraged to claim from that body rather than the Council. Where the travel and subsistence scheme requires the submission of receipts, then these should be attached to the claim form.
  - (iv) From 1 January 2007, HMRC has introduced new VAT regulations following a decision in the European Court. The rules affect fuel costs that are subsequently reimbursed by an employer, either on the basis of the actual cost of the fuel or by means of a mileage allowance. Businesses can continue to recover VAT on fuel costs, but must now retain full VAT receipts.
  - (v) All mileage allowance claims forms received from Members must be supported by full VAT receipts for fuel to cover all journeys being claimed on the form. The receipt must be for fuel purchased in advance of the journeys being claimed. A receipt may cover a single or multiple journeys and single or multiple forms. Where, through low usage, a receipt covers more than one claim, any HMRC compliance testing will recognise this position and will not expect, as a matter of course, a receipt to be attached to each claim.
  - (vi) Original receipts are required, but where a Member has to retain original receipts (e.g. in connection with their own business), a copy will be acceptable. Receipts will be checked by the Democratic Services Team Manager and will be retained for 6 years, plus the current year.
  - (vii) Claims for the Dependants' Carers' Allowance must be accompanied by a receipt or invoice from the paid carer. The Member also has to

notify the Democratic Services Team Manager as to the reasons why they are eligible to make a claim before regular claims are made.

- (viii) Forms can be obtained from Democratic Services (01962 848264).
- (ix) For the purpose of paying Members' Allowances, it is important that the Council's Payroll Manager is notified as soon as possible of new Members' National Insurance numbers and details of their nominated bank or building society accounts, to which all allowances and other expenses will be paid. New Members who currently do not have a National Insurance number are asked to obtain one from the Department of Works and Pensions. Members who have a number, but are uncertain as to what it is, can obtain confirmation from this same source.
- (x) When submitting a claim form, it is important to check against the categories in Schedule 1 to this scheme, to ensure that the duty is eligible for travel and/or subsistence allowance. If in doubt, you are recommended to contact the Democratic Services Team Manager (01962) 848217, prior to submitting the claim. **It is the responsibility of the Member to ensure the accuracy of any claim made.**

## 9.2 Queries over Entitlement

- a. Occasionally, a claim may be made that is considered by officers not to be in accordance with the agreed criteria. In such cases, no payment will be made. If a Member wishes to dispute the decision of the officers, they are requested to appeal in writing to the Democratic Services Manager, who will give reasons for refusing to authorise the payment. If the matter is not resolved, it can be referred to Cabinet to make recommendations to Council.

## 9.3 Tax and National Insurance Implications

- a. Income Tax and National Insurance will be deducted as appropriate from Members' Allowances in accordance with HMRC regulations. Members and Co-opted Members Allowances are taxable at source and may also be subject to National Insurance Contributions (NICs) where applicable. Mileage expenses incurred in the performance of official duties are reimbursed at the HMRC's Approved Mileage Allowance Payment (AMAP) rate and are not subject to tax or NICs. Claims for the reimbursement of other expenses (public transport, parking, subsistence etc.) necessarily incurred in the performance of official duties should always be supported by receipts in accordance with HMRC rules. Non receipted expenses and some subsistence expenses will be subject to deductions of tax and NICs as appropriate. Members should be aware that benefits received from other Authorities or bodies in the pursuance of their duties are taxable, in exactly the same way as if benefits had been provided by the Council. Members who are over State Pension Age should provide evidence of their date of birth to the Payroll section (a photocopy of their birth certificate or passport will suffice).

- b. In certain circumstances Members may be entitled to claim tax relief for some expenses incurred in the course of their duties where these expenses are not re-claimable from the Council. In this instance Members will need to submit a Self-Assessment tax return to the HMRC. Further details are available here: <https://www.gov.uk/tax-relief-for-employees/how-to-claim>
- c. Entitlement to certain state benefits can be reduced by the receipt of Member Allowances and any Member affected should discuss this with the Department for Work and Pensions. The entitlement may be affected even if the Member decides not to claim the allowances. In limited circumstances, and where a Member pays National Insurance Contributions on their Allowances, a Member may be entitled to receive Statutory Sick Pay (SSP) if they are prevented through illness from undertaking official duties for four or more days. If a Member considers this might apply to their circumstances, further advice should be sought.
- d. Any queries regarding the payment of Members' Allowances should be referred to the Payroll section (telephone 01962 848157) or email [payroll@winchester.gov.uk](mailto:payroll@winchester.gov.uk).

#### 9.4 Amendments to Allowance Levels and to Eligibility Criteria

- a. The actual amounts paid under the Scheme and changes to eligibility criteria (particularly in relation to outside bodies) are more likely to be revised on a regular basis than the overall policy of the Scheme. For this reason, the information is contained in the Schedules can therefore be updated and reissued to Members as appropriate.

#### 9.5 Publicity of Scheme

##### a. Keeping Records of Payments

- (i) A record of all payments to individual Councillors under the Scheme will be kept and made available for public inspection.
- (ii) The Democratic Services Team Manager will record the names of Members attending meetings called by the Chief Executive or Strategic Directors. For other meetings called by Heads of Teams, such as Member training, the Officer calling the meeting will record the names of Members in attendance and submit a list to the Democratic Services Team Manager.

##### b. Advertisement of Scheme

- (i) In the event of the Scheme being revoked or amended, publicity shall be given in accordance with Regulation 16 of the 2003 Regulations (SI No. 1021). Any change in allowance rates due to use of an index must also be publicised under Regulation 16(2).
- (ii) The Scheme must also be advertised in accordance with regulation 15(3) of the same Regulations as soon as possible in each year, setting out the following information regarding the payments that were

made to each individual in respect of Basic, Special Responsibility, Co-optees', and Dependants' Carers' Allowances etc, together with travel and subsistence allowances, during the preceding financial year. .

## Schedule 1- Eligibility for Travel and Subsistence

### 10 Internal Meetings

#### 10.1 Travel Allowances are payable in the following cases:-

a. SUBSISTENCE allowances are NOT payable for this category.

- (i) A Councillor attending Council, or a Councillor attending as a member of Cabinet, or Member or deputy of a Committee, Sub-Committee, Informal Working Group etc. which is convened by the Chief Executive, Strategic Director and Monitoring Officer.
- (ii) A Chairperson and/or Vice-Chairperson and a spokesperson for each of the other political Groups attending a Group Representatives Briefing for Cabinet, a Committee or Sub-Committee with officers (not including Pre-Agenda Meetings attended by Chairpersons).
- (iii) Where a Chairperson (or in their absence Vice-Chairperson), Portfolio Holder or Cabinet Member has been invited to meet with a Member of the Executive Leader's Board (ELB) or Corporate Head of Service.
- (iv) A Councillor attending a tour of the District or a Councillor appointed to attend a site visit accompanied by officers, in both cases which Cabinet, a Committee or Sub-Committee has resolved should be made, or which has been arranged by the Chief Executive, Strategic Director and Monitoring Officer.
- (v) A Councillor appointed by Cabinet or a Committee or given prior approval by the Strategic Director and Monitoring Officer to attend an official meeting with other local authorities.
- (vi) A Councillor attending a meeting where a minimum of two political groups are invited to attend, called by the Corporate Head of Service, subject to the prior approval of the Strategic Director and Monitoring Officer.
- (vii) A Councillor attending a meeting of Cabinet or a Committee they do not serve on and to which ALL Members of the Council have been invited to attend.
- (viii) Any Member attending a formal meeting, where they have been permitted to speak by the Chairperson under Council Procedure Rules.
- (ix) A member of the Shadow Cabinet (Principal Opposition Group) and other Group Leaders (of a Group of at least **two** Members) when they are attending Cabinet meetings and when attending internal meetings when invited by a member of ELB or a Corporate Head of Service.



- (x) Member Training - subject to the event being arranged by a Corporate Head of Service as a training seminar with a formal invitation sent or prior approval given by the Monitoring Officer.

## 11 External Meetings

11.1 PLEASE NOTE THAT FOR CATEGORIES A AND B BELOW, IF ANY PAYMENT HAS BEEN RECEIVED FROM THE HOST ORGANISATION FOR TRAVEL OR SUBSISTENCE, THEN NO PAYMENT CAN LAWFULLY BE MADE UNDER THIS SCHEME FOR THE CATEGORY FOR WHICH THE HOST ORGANISATION HAS MADE A PAYMENT.

11.2 WHERE PAYMENT IS PERMITTED UNDER THE FOLLOWING CATEGORIES, ALL MEMBERS APPOINTED BY COUNCIL, CABINET, A COMMITTEE, SUB-COMMITTEE OR WORKING GROUP TO ATTEND A DUTY ARE ELIGIBLE TO CLAIM, EXCEPT WHERE A LIMITATION ON THE NUMBERS RECEIVING PAYMENT HAS BEEN AGREED, WHICH IS REFERRED TO BY EACH ITEM.

11.3 Category "A" - Travel Payable (plus Subsistence when meeting takes place outside the Winchester District)

### a. Ad-Hoc Appointments

- (i) The Carroll Centre Board of Trustees
- (ii) Hospital of St Cross & Almshouses of Noble Poverty
- (iii) PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee
- (iv) Play to the Crowd (formerly the Live Theatre Winchester Trust Limited (LTWTL))
- (v) River Hamble Harbour Management Sub-Committee
- (vi) South Downs National Park Authority
- (vii) St John's Winchester Charity
- (viii) Streetreach
- (ix) Trinity Winchester
- (x) Welborne Community Forum
- (xi) Winchester Charity School Education Foundation
- (xii) Winchester Churches Nightshelter
- (xiii) Winchester District Board of the Council for the Protection of Rural England
- (xiv) Winchester Excavations Committee
- (xv) Winchester Housing Trust
- (xvi) Winchester Welfare Charities

## b. Annual Appointments

- (i) Centre for Public Scrutiny (CfPS) Scrutiny Champions Network
- (ii) Citizens Advice Winchester District
- (iii) Hampshire Cultural Trust (Observer appointment)
- (iv) Hampshire Homechoice Board
- (v) Hampshire & IOW Association of Local Authorities (HIOWA)
- (vi) Hampshire Police & Crime Panel
- (vii) Hampshire Rural Forum
- (viii) HCC Annual Meeting with Parish & District Councils (Transport)
- (ix) Intergr8 CIC at Unit 12
- (x) Local Government Association
- (xi) Police and Crime Panel
- (xii) Portsmouth City Council – Health Overview & Scrutiny Panel
- (xiii) Portsmouth Water Customer Forum
- (xiv) Project Integra Management Board
- (xv) PfSH Joint Committee
- (xvi) PfSH Overview & Scrutiny Committee
- (xvii) Southampton International Airport Consultative Committee
- (xviii) South East Employers
- (xix) South East Employers – Councillors Local Democracy & Accountability Network
- (xx) South East England Councils (SEEC)
- (xxi) Tourism South East
- (xxii) Winchester Action on Climate Change (WinACC)
- (xxiii) Winchester Business Improvement District (BID)
- (xxiv) Winchester Road Safety Council
- (xxv) Winchester Sports Stadium Management Committee

### 11.4 Category "B" - Can be Approved on an Ad-Hoc Basis Either Travel and Subsistence, or Travel only.

- a. Where a Member wishes to attend an ad-hoc meeting or an official event on behalf of the Council which is not listed in Category A in the Scheme, then authorisation, either for travel and subsistence, or travel/mileage only, may be obtained prior to the event through the Democratic Services Team Manager, in exercise of delegated authority taking account of the eligible list of approved duties in regulation 8(1) of the 2003 Regulations (SI No 1021). Subsistence allowances are only payable for attending approved duties outside the Winchester district.

- b. A request can only be approved under this provision for the same meeting on up to two separate occasions. Otherwise the matter will be referred to Cabinet for recommendation to Council as to whether it is suitable for inclusion on the Category A list.

#### 11.5 Category "C" - No Travel or Subsistence is Payable

- a. Remuneration is only payable for the specific duties listed in the Categories A or B of **the** Scheme, and not for any other activity, even though it may be linked to Council business. The following list of duties not eligible for payment is not an exhaustive list, but includes duties where a policy decision has been taken not to include them on the Category A list.
  - b. No **allowance** is payable in respect of duties in connection with any of the following:
    - (i) Universities, Colleges and Schools
    - (ii) Residents' interest and action groups
    - (iii) Parish Council meetings
-

12 Schedule 2 - Amounts Currently Paid for Each Duty (From 01/04/23)

Post	No of SRAs Suggested <sup>1</sup>	Basic Allowance	Special Responsibility Allowance	Total Allowance per Member
<b>Basic Allowance</b>				
All Members		£6956		£6956
<b>Band One</b>				
Leader	1	£6956	£20312	£27268
<b>Band Two</b>				
Deputy Leader with a Portfolio	1	£6956	£11172	£18128
<b>Band Three</b>				
Deputy Leader without a Portfolio	Not in current use	£6956	£9141	Not in current use
Cabinet Member with a Portfolio	7	£6956	£9141	£16097
Chairperson of The Scrutiny Committee	1	£6956	£9141	£16097
Chairperson of Planning Committee	1	£6956	£9141	£16097
Leader of Principal Opposition Group	1	£6956	£9141	£16097
<b>Band Four</b>				
Chairperson of Licensing & Regulation Committee	1	£6956	£4063	£11019
Chairperson of Audit and Governance Committee	1	£6956	£4063	£11019
Chairperson of the Economy and Housing Policy Committee <sup>4</sup>	1	£6956	£4063	£11019
Chairperson of the Health and Environment Policy Committee	1	£6956	£4063	£11019
<b>Band Five</b>				
Chairperson of the Council	1	£6956	£3048	£10004
Other Opposition Group Leaders (not in current use) <sup>2</sup>	Not in current use	£6956	£3048	£10004
Vice Chairperson of Planning Committee	1	£6956	£3048	£10004
<b>Band Six</b>				

Chairperson of Winchester Town Forum	1	£6956	£2031	£8987
Chairperson of Task & Finish &/or Ad Hoc Working Groups/Panels with Significant Impact Group Managers <sup>3</sup>	See note 1	£6956	£2031	£8987
		£6956		£8987
		£6956		£8987

**NOTE 1.** The number of SRAs listed in the second column is for illustrative purposes only. The number of recommended SRAs that are payable at any one time to various post holders will vary in some instances depending on what SRAs are in effect based on changing political structures. The Panel has taken on board the statutory advice that no more than 50 per cent of the membership should be in receipt of a SRA at any one time. It has also adopted the principle that a Member can only draw down one SRA regardless of the number of posts held. For instance, if Council appoints the Leader of the Principal Opposition Group as Chairman of the Scrutiny Committee (which has occurred in the past) they can only draw one SRA of their choice. This would be the relevant committee SRA or Opposition Group Leader SRA but not both. The variation in the number of SRAs being claimed at one time will affect the number of Task and Finish and/or Ad Hoc Working Groups and/or Panels that the Council can award a Band 6 allowance. There is a ceiling of no more than 23 Members in receipt of a SRA.

**NOTE 2.** To qualify for the 'Other Opposition Group Leader' SRA, the Group must have at least 4 Members.

**NOTE 3.** To qualify for the 'Group Manager' SRA, the Group must have at least 15 Members.

**NOTE 4.** Previously Business and Housing Policy Committee.

13 Other Allowances – with effect from 01/04/23

Type of Allowance:		(£)
Travel		
Travel within District	Cars and Vans  (including hybrid electric/petrol/diesel and 100% electric vehicles)	45p a mile
	Motor Cycles	24p a mile
	Bicycles	20p a mile
Travel outside District	Cars and Vans	45p a mile (subject to most effective mode of transport for reasonable needs of Member)
All Journeys	Air Travel	Not to exceed public transport (e.g. train fare) unless prior approval obtained
	Ferry	Economy class fare or reduced rate
	Rail	2 <sup>nd</sup> class fare or reduced rate
	Taxi or Private Hire	Fare and reasonable gratuity (bus or train rate if use of taxi/private hire optional)
	Hired car	Prior approval - actual cost. Otherwise normal mileage rates
		Ordinary or cheap rate fare

	Bus	Actual cost
	Car Parking	
	Additional mileage rate for Members carrying other Members in their vehicles	5p a mile (per passenger up to 4 max.)
Subsistence		
Subsistence <u>outside</u> District only	Breakfast	5.17
	Lunch	7.13
	Tea	2.79
	Evening Meal	8.82
Overnight stay outside District		86.03
Overnight stay – London		98.11
Dependants' Carers' Allowance (to include childcare):		
Actual fees, up to		8.45 per hour
Co-optees' Allowances:		
Co-opted Members		240 pa

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