

Part 3.2 - The Cabinet, its Committees and the Portfolio Holder Structure

1. Executive functions will be performed by the Cabinet. These functions will be grouped together in the form of portfolios. The number and scope of which will be determined by the Leader.

The Leader will also allocate responsibility for the portfolios 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 a portfolio to each Cabinet Member and allocated to each portfolio holder responsibility for the discharge of functions set out below.

The Leader may exercise any of the functions delegated to individual Cabinet Member.

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 Proper Officer.

2.1 Cabinet

The Cabinet will be collectively responsible for executive functions which are not otherwise delegated by the Leader.

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. These are printed below.

Where the Terms of Reference of Cabinet Committees or Joint Committees overlap with the Portfolio Holder's general powers of delegation, the executive decision is to be taken by the Cabinet Committee or Joint Committee.

Therefore the Portfolio Holders' general powers of delegation are to be subject to, and subservient to, the Cabinet Committees and Joint Committees' specific Terms of Reference.

Set out below also are responsibility for executive functions to be exercised by the Leader and Portfolio Holders (Cabinet Members). The Leader or the Portfolio Holder may refer the exercise of an executive function within a Portfolio for a decision by the Cabinet.

Cabinet Advice on Council Functions

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.

2.2 Cabinet Committees

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.

The Cabinet has currently no established Committees.

2.3 The Cabinet Portfolios and Service Areas of Responsibility

The table below sets out the portfolio of functions allocated to each Cabinet Member:

Leader with Portfolio for Communications and Transformation	Communications; Transformation
Deputy Leader with Portfolio for Finance and Risk	Finance; Revenues & Benefits; Human Resources; Legal; Governance
Portfolio for Environment	Environmental Services; Engineering & Transport
Portfolio for Housing and Asset Management	Housing; Estates; Corporate Property; IMT; Guildhall
Portfolio for Local Economy	Economy; Tourism
Portfolio for Sport, Leisure and Communities	Sport and Leisure; Community
Portfolio for Built Environment and Wellbeing	Built Environment; Public Protection

2.4 General Powers Granted to Portfolio Holders

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 portfolio areas;
- b) To be responsible for ensuring the successful delivery of business transformation in relation to their portfolio areas;
- c) To request the Scrutiny Committees 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 framework and budget);
- g) To make proposals for policy initiatives, within the policy framework and budget, 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 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 Built Environment and Wellbeing has delegated authority to approve all community safety partnership strategies under the Crime and Disorder Act or other related legislation.

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 (Part 4.4 of the Council's Constitution).

2.5 The Leader

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 proper officer.

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.

2.6 Cabinet Joint Committees

2.6.1 East Hampshire/Winchester City Council Joint Environmental Services Committee.

The Constitution and Terms of Reference of this Committee are set out in the Appendix 1 to Section 2.

Joint Environmental Services Committee – Constitution

This Constitution had been approved by East Hampshire District Council and Winchester City Council as the Constitution of the Joint Committee.

1. Definitions

In this Constitution, the following terms shall have the meanings ascribed to them:

- 1.1. “Administering Authority” means the Authority selected to administer the joint procurement arrangements
- 1.2. “Authority” means East Hampshire District Council and/or Winchester City Council.
- 1.3. “Cabinet” means the Executive (within the meaning of Section 11 of the Local Government Act 2000).
- 1.4. “Contract” means the contract to be let by the Administering Authority as part of the agreed joint procurement arrangements between the Authorities.
- 1.5. “Head of Democratic Services” means the officer within each Authority responsible for Committee administration within that Authority.
- 1.6. “Joint Committee” means the Joint Environmental Services Committee established under this Constitution.
- 1.7. “Legal Adviser” means the officer nominated by the Administering Authority to provide legal advice to the Joint Committee.
- 1.8. “Project Director” means the officer nominated by the Administering Authority to oversee the joint procurement and the Contract.
- 1.9. “Secretary” means the officer appointed by the Joint Committee in accordance with Clause 6.2 of these Terms of Reference to act as the secretary of the Joint Committee.

2. Establishment of the Joint Committee

- 2.1. The Joint Committee shall be the “East Hampshire and Winchester Joint Environmental Services Committee”.
- 2.2. The Joint Committee is established under Section 101(5) of the Local Government Act 1972, as applied by Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000 by the Cabinets of East Hampshire District Council and Winchester City Council.
- 2.3. The area within which the Joint Committee is to exercise its authority is the area covered by the administrative districts of Winchester and East Hampshire.
- 2.4. This Constitution sets out how the Joint Committee will operate and how decisions are made.

3. Objectives

- 3.1. The purpose of the two Authorities in establishing the Joint Committee is to facilitate the efficient joint procurement of, and the subsequent operation and management of, a joint contract for waste and recycling collections, street cleaning, grounds maintenance and associated services facilities for the treatment and disposal of residual waste in pursuance of the waste collection, street cleaning and grounds maintenance functions of the two Authorities arising under the Environmental Protection Act 1990, the Local Government (Miscellaneous Provisions) Act 1976 and the Local Government Act 1972.

4. Membership and Appointment of the Joint Committee

- 4.1. The Joint Committee shall comprise six Members, being three Members from each Authority. Each appointing Authority shall, unless there are overriding reasons to the contrary, appoint to the Joint Committee the Leader and the member of the Cabinet of that Authority who has portfolio responsibility for waste functions within that Authority.
- 4.2. Each member of the Joint Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing Authority.
- 4.3. Each Authority may appoint another named person to act as a Deputy for any of their 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.
- 4.4. The appointment of members of the Joint Committee to fill any vacancy for such members shall be made by the Cabinet of each Authority:

- 4.4.1. As soon as practicable following the adoption of this Constitution by the Cabinet of that Authority;
 - 4.4.2. As soon as practicable after the election of the Cabinet of that Authority in accordance with that Authority's Constitution; and
 - 4.4.3. As soon as practicable after a vacancy arises in respect of a seat on the Joint Committee to which the Executive of that Authority has the power to make an appointment.
- 4.5. A member of the Joint Committee shall cease to be a member of the Joint Committee, and a vacancy shall automatically arise, where:
- 4.5.1. The member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as:
 - a) A member of an appointing Authority, or
 - b) A member of the Executive of the appointing Authority;
 - 4.5.2. The member is removed from membership of the Joint Committee by notification in writing from the Head of Democratic Services of the appointing Authority to the Secretary of the Joint Committee;
 - 4.5.3. The member fails to attend all meetings of the Joint Committee within a period of six (6) months.
- 4.6. All appointments to membership of the Joint Committee shall be made by notification in writing from the Head of Democratic Services of the appointing Authority to the Secretary of the Joint Committee.
- 4.7. Upon being made aware of any member ceasing to be a member of the Joint Committee, the Secretary of the Joint Committee shall write to that member confirming that they have ceased to be a member of the Joint Committee, and notify the appointing Authority and the other members of the Joint Committee accordingly.

5. Chairperson and Vice- Chairperson of the Joint Committee

- 5.1. At the first meeting of the Joint Committee after the 1st May in any year, the Joint Committee shall elect a Chairperson of the Joint Committee and a Vice-Chairperson of the Joint Committee for the following year from among the members of the Joint Committee.
- 5.2. Where a member of one appointing Authority is elected as the Chairperson of the Joint Committee, the Vice-Chairperson of the Joint Committee shall be elected from among the members of the Joint Committee who are members of the other appointing Authorities.

- 5.3. The Chairperson and Vice-Chairperson of the Joint Committee shall each hold office until:
- 5.3.1. A new Chairperson or Vice-Chairperson of the Joint Committee is elected in accordance with Paragraph 5.1 above,
 - 5.3.2. They cease to be a member of the Joint Committee, or
 - 5.3.3. They resign from the office of Chairperson or Vice-Chairperson by notification in writing to the Secretary of the Joint Committee.
- 5.4. Where a casual vacancy arises in the office of Chairperson or Vice-Chairperson of the Joint Committee, the Joint Committee shall at its next meeting elect a Chairperson or Vice-Chairperson, as the case may be, for the balance of the term of office of the previous Chairperson or Vice-Chairperson.
- 5.5. Where, at any meeting or part of a meeting of the Joint Committee, both the Chairperson and Vice-Chairperson of the Joint Committee are either absent or unable to act as Chairperson or Vice-Chairperson, the Joint Committee shall elect one of the members of the Joint Committee present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate.

6. Secretary of the Joint Committee

- 6.1. The Joint Committee shall be supported by the Secretary of the Joint Committee.
- 6.2. The Secretary of the Joint Committee shall be an officer of one of the appointing Authorities, appointed by the Joint Committee for this purpose.
- 6.3. The functions of the Secretary of the Joint Committee shall be:
- a) To maintain a record of membership of the Joint Committee;
 - b) To notify the proper officers of each appointing Authority of any anticipated “key decisions” to be taken by the Joint Committee, to enable such “key decisions” to be included in Forward Plans of each appointing Authority;
 - c) To carry out such notification to and consultation with members of any appointing Authority as may be necessary to enable the Joint Committee to take urgent “key decisions” which have not been included in the Forward Plans of the appointing Authorities;
 - d) To summon meetings of the Joint Committee in accordance with Paragraph 7 below;

- e) To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairperson and the Vice-Chairperson of the Committee and the Project Director;
- f) To keep a record of the proceedings of the Joint Committee;
- g) To take such administrative action as may be necessary to give effect to decisions of the Joint Committee;
- h) Such other functions as may be determined by the Joint Committee.

7. Convening of Meetings of the Joint Committee

7.1. 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 of the Joint Committee, being such time, place and location as:

- 7.1.1. the Joint Committee shall from time to time resolve; or
- 7.1.2. the Chairperson of the Joint Committee, or if they are unable to act, the Vice-Chairperson of the Joint Committee, shall notify to the Secretary of the Joint Committee, or
- 7.1.3. the Secretary of the Joint Committee, in consultation where practicable with the Chairperson and Vice-Chairperson of the Joint Committee, shall determine in response to receipt of a request in writing addressed to the Secretary of the Joint Committee:
 - a) From and signed by two members of the Joint Committee, or
 - b) From the Chief Executive of any of the appointing Authorities which request sets out an urgent item of business within the functions of the Joint Committee.

7.2. The Secretary of the Joint Committee shall settle the agenda for any meeting of the Joint Committee after consulting, where practicable:

- 7.2.1. The Chairperson of the Joint Committee;
- 7.2.2. The Vice-Chairperson of the Joint Committee;
- 7.2.3. The Project Director.

And shall incorporate in the agenda, any items of business and any reports submitted by:

- a) The Chief Executive of any of the appointing Authorities;
- b) The Chief Finance Officer to any of the appointing Authorities;

- c) The Monitoring Officer to any of the appointing Authorities;
- d) The Legal Adviser to the Joint Committee;
- e) The Project Director;
- f) Any two members of the Joint Committee in accordance with Paragraph 9.1.3 below.

8. Procedure at Meetings of the Joint Committee

- 8.1. 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 Executive Decision-Making Procedure Rules of East Hampshire District Council, except in so far as may be specified to the contrary in this Constitution.
- 8.2. 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.
- 8.3. Subject to Clause 8.5, questions shall be decided by a majority of the votes of the members present and voting.
- 8.4. The Chairperson shall not have a second or casting vote.
- 8.5. Where a relevant matter has been voted on, and immediately following the declaration of the result of a vote, at least one Member indicates a wish to invoke this provision, the decision shall not take immediate effect, but shall be adjourned for further consideration at a subsequent meeting of the Joint Committee and if at that subsequent meeting the Joint Committee shall on that question again be unable to reach a binding decision, the question may be referred for determination by the Councils.
- 8.6. Where the effect of a particular proposition, if adopted by the Joint Committee, would be to give rise to contractual or financial implications for any Authority, then in addition to the normal requirement for a simple majority of votes, the vote of both of the Members appointed by that Authority, in favour of the proposition, shall be required. Where a particular proposition does not obtain such support, the proposition cannot be adopted by the Board.

9. Powers Delegated to the Joint Committee

- 9.1. The Cabinets of each of the appointing Authorities has delegated to Joint Committee all executive functions and powers of that Authority as may be necessary, calculated to facilitate, incidental or conducive to the discharge of the functions of the Joint Committee except as specified below.

9.2. The following functions are reserved to the appointing Authorities and shall not be within the powers of the Joint Committee:

9.2.1. All non-executive functions of any of the appointing Authorities;

9.2.2. Any decision which is contrary to or not wholly in accordance with the Budget approved by each appointing Authority for the Joint Committee, or is contrary to an approved policy or strategy of any of the appointing Authorities PROVIDED THAT decisions on the following policy harmonisation issues may be taken by the Joint Committee:

Refuse

- a) Hard to Reach Properties
- b) Bin Colour
- c) Dwellings housing larger families
- d) Bulky Waste/replacement bin charges
- e) Side waste
- f) Bank Holiday working

Street Cleaning

- g) Nature of Highway Cleaning Specification (Input/Output)
- h) Parish Council service level agreements
- i) Response times for fly tipping
- j) Trunk Road Cleaning

Grounds Maintenance

- k) Frequency of Grass Cutting
- 9.2.3. Any decision in respect of which the Chief Executive of any of the appointing Authorities has notified the Secretary of the Joint Committee in writing of the Authority's formal objection to the proposed decision.
- 9.2.4. Approval of the selection and evaluation criteria to select tenderers and award the Contract;

- 9.2.5. Approval or amendment of any Inter Authority Agreement between the appointing Authorities in respect of the discharge of the appointing Authorities' waste collection functions.

10. Attendance at Meetings of the Joint Committee

- 10.1. Notwithstanding that a meeting or part of a meeting of the Joint Committee is not open to the press and public the officers specified in Paragraph 10.2 below of each of the appointing Authorities shall be entitled to attend all, and all parts, of such meetings, unless the particular officer has a conflict of interest as a result of a personal interest in the matter under consideration.
- 10.2. The following are the officers who shall have a right of attendance in accordance with Paragraph 10.1:
 - 10.2.1 The Chief Executive of any of the appointing Authorities;
 - 10.2.2 The Chief Finance Officer to any of the appointing Authorities;
 - 10.2.3 The Monitoring Officer to any of the appointing Authorities;
 - 10.2.4 Any person appointed by the Joint Committee to manage the procurement of the Contract or manage the Contract;
 - 10.2.5 The senior technical officer of each Authority with responsibility for waste collection functions;
 - 10.2.6 The Secretary of the Joint Committee.

11. Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules

- 11.1. The Joint Committee shall operate under the Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules of East Hampshire District Council.

12. Amendment of this Constitution

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